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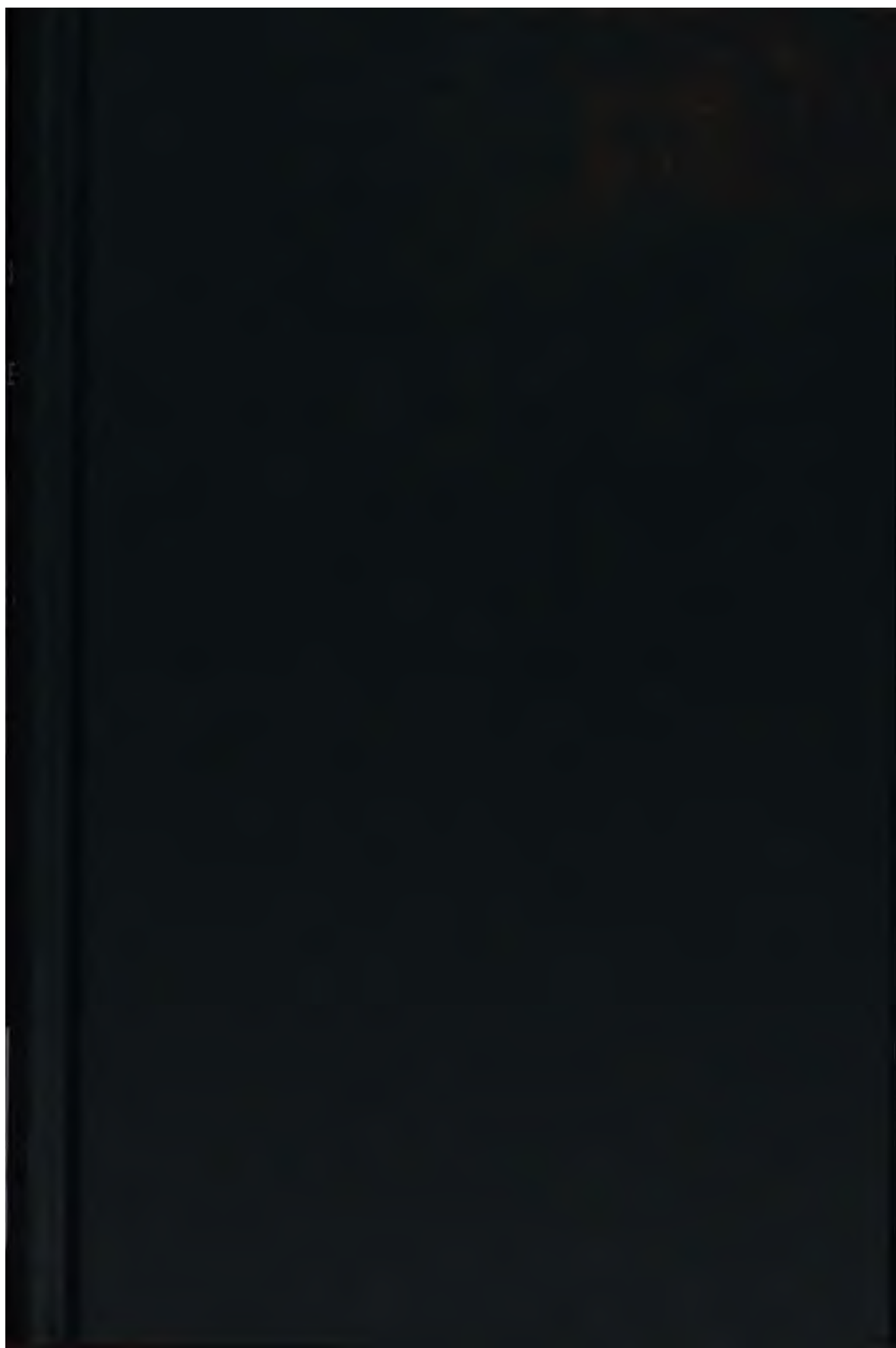
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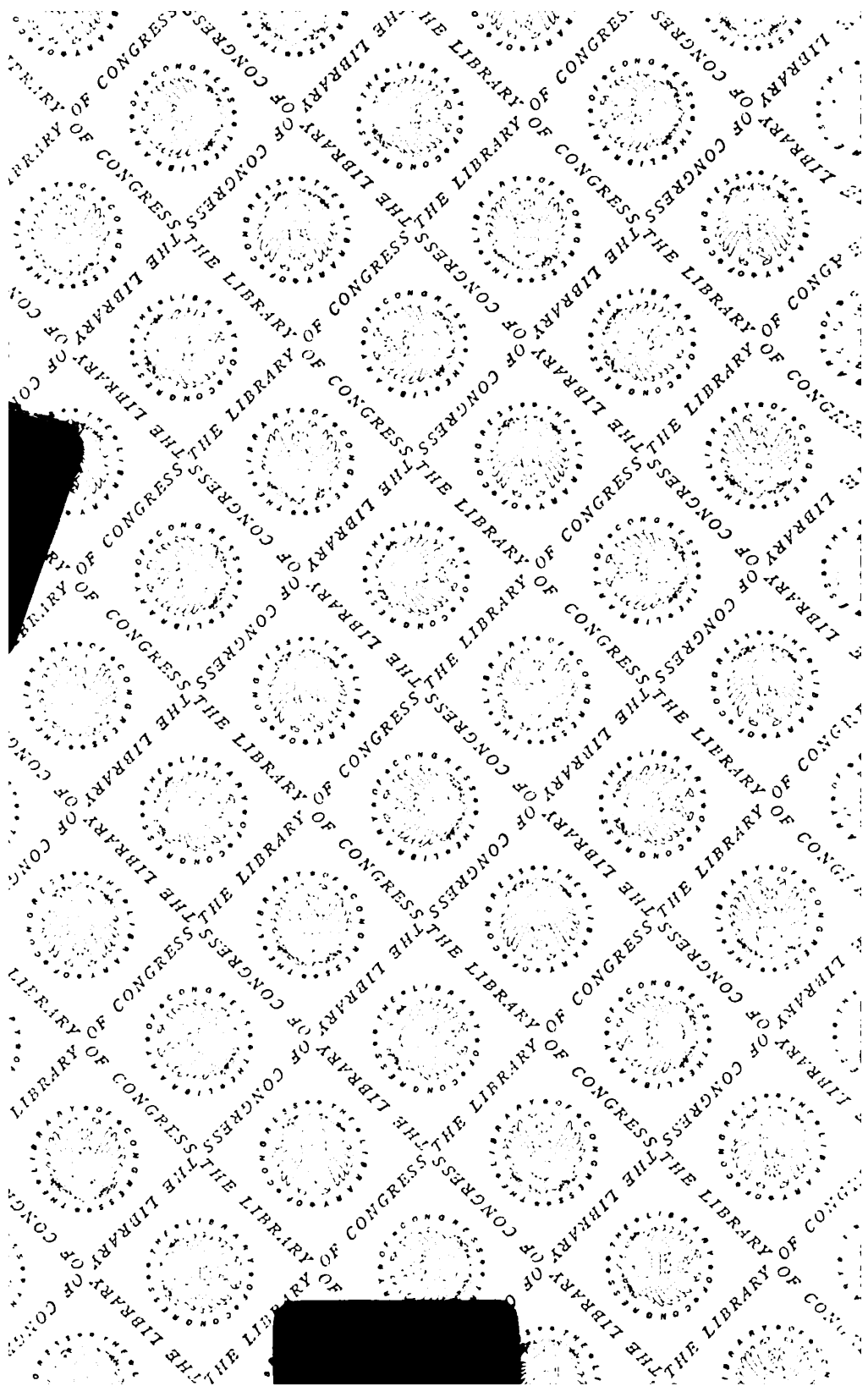
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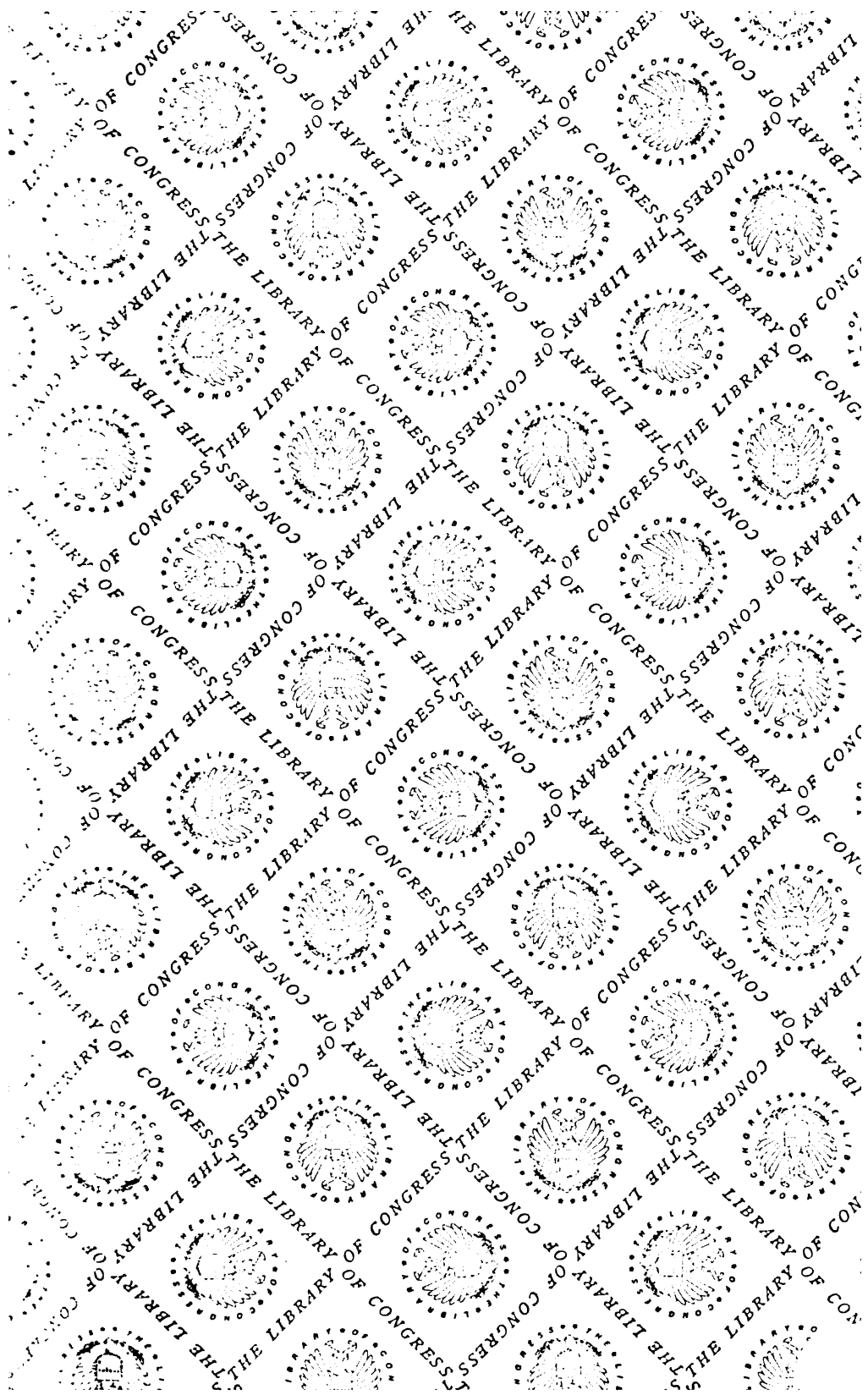
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HEARINGS

2327

BEFORE THE

U. S. Congress. Senate.

COMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

UNITED STATES SENATE.

Fifty-Eighth Congress, Second Session.

1904.

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TABLE OF CONTENTS:

	Page.
1. ✓ Bill (S. 2879) to amend the law relating to taxation in the District of Columbia	1
2. ✓ Bill (H. R. 6289) to provide for the abatement of nuisances in the District of Columbia	33
3. ✓ Bill (H. R. 9293) to create a board for the condemnation of insanitary buildings in the District of Columbia	33
4. ✓ Bill (S. 4106) to regulate the operation of street railways in the District of Columbia	73
5. ✓ Bill (S. 2402) to secure sanitary dairy products for the District of Columbia	121
6. ✓ Bill (S. 2833) to authorize the extension, construction, and operation of the Great Falls and Old Dominion Railroad in the District of Columbia.	173
7. ✓ Bill (S. 4845) regulating the erection of buildings on the Mall, in the District of Columbia	299

91

INDEX.

	Page.
American Institute of Architects, letter in re buildings on the Mall	302
Arguments of citizens' associations in favor of bill to regulate the operation of street railways in District of Columbia	110
Ashford, Snowden, statement in re abatement of nuisances	52
Babbitt, Charles H., statement in re Great Falls and Old Dominion Railroad ..	240
Boteler, George G., statement in re Great Falls and Old Dominion Railroad ..	225
Boyd, Howard, statement in re Great Falls and Old Dominion Railroad ...	255
Brown, Clement, statement in re Great Falls and Old Dominion Railroad ..	230
Building associations, reduction of taxes	20
Buildings on Mall in line with Dome and Monument, in re	299
Bulkley, Barry, statement in re Great Falls and Old Dominion Railroad ...	220
Burnham, D. H., statement in re erection of buildings on the Mall	308
Butler, Marion, statement in re Great Falls and Old Dominion Railroad ...	186
Butler, Nicholas M., letter in re erection of buildings on the Mall	300
Capital stock of corporations, in re taxation	17
Charters of street railways, dates of, etc.	112
Citizens' associations of the District of Columbia, written statement in re street railways in District of Columbia	110
Coldren, F. G., statement in re street railways in District of Columbia	89, 110
Commissioners of District of Columbia:	
Views on bill of Great Falls and Old Dominion Railroad	177
Substitute bill of Great Falls and Old Dominion Railroad	181
Corporations, taxes on franchises (Senator Martin)	4, 5
Dairy products. (<i>See</i> Sanitary, 123.)	
Darby, C. R., statement in re sanitary dairy products	170
Darneille, H. H., statement in re taxation	5
Davidge, C. H., statement in re taxation of savings banks	12
Davis, Henry E., statement in re nuisances	44
Day, Frank Miles, statement in re erection of buildings on the Mall	319
Distrain of goods and merchandise, etc.	21
Dunlop, George T.:	
Statement in re street railways in District of Columbia	94, 110
Statement in re extension of Great Falls and Old Dominion Railroad ..	193, 279
Eames, W. S., statement in re erection of buildings on the Mall	319
Edson, John Joy, statement in re nuisances	51
Fidelity and bonding companies, taxation of	14
Foster, Hon. John W., statement in re nuisances	51
Gallinger, Hon. J. H., opening statement in re street railways in District of Columbia	75
Galloway, B. T., statement in re erection of buildings on the Mall	303
Goldsborough, Richard H., statement in re extension of Great Falls and Old Dominion Railroad	208
Great Falls and Old Dominion Railroad:	
Hearing in re extension and operation, etc	175
Babbitt, Charles H., statement of	240
Boteler, George G., statement of	225
Boyd, Howard, statement of	255
Brown, Clement, statement of	230
Bulkley, Barry, statement of	220
Butler, Hon. Marion, statement of	186

Great Falls and Old Dominion Railroad—Continued.

	Page.
Commissioners—	
Views of.....	177
Substitute bill.....	181
Dunlop, George T., statement of.....	193, 279
Goldsborough, Richard H., statement of.....	208
Hackett, Hon. Frank W., statement of.....	227
Harries, Gen. George H., statement of.....	259
Harris, James H., statement of.....	231
Henderson, William G., statement of.....	251
Johnson, Paul E., statement of.....	240
Jones, Hon. James K., letter of.....	229
King, George A., statement of.....	235
McDermott, Hon. Allan L., statement of.....	209
McKee, D. R., statement of.....	231, 232
McPherson, Donald, statement of.....	245
Millan, W. W., statement of.....	243
National Geographic Society, letter of.....	247
Otterback, Maurice, statement of.....	250
Phillips, Robert A., statement of.....	223
Ridout, John, statement of.....	274
Roache, E. J., statement of.....	223
Scott, O. J. W., statement of.....	257
Somers, Elizabeth J., statement of.....	249
Spohn, Milford, statement of.....	220
Tucker, Evan H., statement of.....	218
Weller, M. I., statement of.....	254
Williams, H. E., statement of.....	239
Williams, W. Mosby, statement of.....	214
Wood, J. M., statement of.....	238
Yoder, S. S., statement of.....	216
Gregg, J. W., statement in re sanitary dairy products.....	154-167
Hackett, Hon. Frank W., statement in re extension of Great Falls and Old Dominion Railroad.....	227
Harries, Gen. George H.:.....	
Statement in re street railways in District of Columbia.....	97
Statement in re extension of Great Falls and Old Dominion Railroad....	259
Harris, James H., statement in re extension of Great Falls and Old Dominion Railroad.....	231
Health officer, District of Columbia, statement in re nuisances.....	66
Henderson, William G., statement in re street railways in District of Columbia.....	78
Hooper, L. L., statement in re street railways in District of Columbia.....	92
Hornblower, J. C., statement of, in re erection of buildings on the Mall....	321
Jones, Hon. James K., letter of, in re extension of Great Falls and Old Dominion Railroad.....	229
Johnson, Paul E., statement in re extension of, Great Falls and Old Dominion Railroad.....	240
Keller, George, paper of, in re erection of buildings on the Mall.....	343
Kellogg, Thomas M., statement of, in re erection of buildings on the Mall..	326
King, George A., statement in re extension of Great Falls and Old Dominion Railroad.....	235
Kinnan, A. F., statement in re nuisances.....	65
Kober, Dr. G. M., statement in re nuisances.....	59
Langley, Prof. S. P., statement of, in re erection of buildings on the Mall...	307
Liquor, sale of, to minors.....	23
McDermott, Hon. Allan L., statement in re extension of Great Falls and Old Dominion Railroad.....	209
Macfarland, Hon. H. B. F., report and substitute bill on extension of Great Falls and Old Dominion Railroad.....	177, 181
McKee, D. R., statement in re extension of Great Falls and Old Dominion Railroad.....	231, 232
McKim, C. F., statement in re buildings on the Mall.....	323
McLaughlin, A. E., statement in re street railways in the District of Columbia.....	94
McPherson, Donald, statement in re extension of Great Falls and Old Dominion Railroad.....	245

INDEX.

7

Mall:	Page.
Hearing on bill regulating the erection of buildings on the.....	299
American Institute of Architects, letter of, in re.....	302
Burnham, D. H., statement in re.....	308
Butter, Nicholas M., letter of, in re.....	300
Day, Frank Miles, statement of.....	319
Eames, W. S., statement of.....	319
Galloway, B. T., statement of.....	303
Hornblower, J. C., statement of.....	321
Keller, George, paper of.....	343
Kellogg, Thomas M., statement of.....	326
Langley, Prof. S. P., statement of.....	307
McKim, C. F., statement of.....	323
Mundie, W. B., statement of.....	323
Olmsted, F. L., jr., statement of.....	324
Post, George B., statements of.....	316, 321
St. Gaudens, Augustus, statement of.....	331
Smith, Franklin W., statement of.....	332
Washington Architectural Club, resolutions adopted by, in re.....	300
Wilson, Hon. James, letter of.....	301
Millan, W. W., statement in re extension of Great Falls and Old Dominion Railroad.....	243
Minors, sale of liquor to, shall be prohibited.....	23
Mundie, W. B., statement in re erection of buildings on the Mall.....	323
National Geographic Society, letter of, in re extension of Great Falls and Old Dominion Railroad.....	247
Nuisances:	
Hearing in re abatement of.....	35
Bills to provide for the abatement of.....	35
Ashford, Snowden, statement in re.....	52
Davis, Henry E., statement in re.....	44
Edson, John Joy, statement in re.....	61
Foster, Hon. John W., statement in re.....	51
Kinnan, A. F., statement in re.....	65
Kober, Dr. G. M., statement in re.....	59
Sternberg, Gen. G. M., statement in re.....	47
Woodward, S. W., statement in re.....	40
Woodward, W. C., statement in re.....	66
Olmsted, F. L., jr., statement of, in re erection of buildings on the Mall....	324
Otterback, Maurice, statement in re extension of Great Falls and Old Dominion Railroad.....	250
Phillips, Robert A., statement in re extension of Great Falls and Old Dominion Railroad.....	223
Post, George B., statement in re erection of buildings on the Mall.....	316, 321
Ridout, John, statement in re extension of Great Falls and Old Dominion Railroad.....	274
Roache, E. J., statement in re extension of Great Falls and Old Dominion Railroad.....	223
St. Gaudens, Augustus, statement in re erection of buildings on the Mall....	331
Sanitary dairy products for the District of Columbia:	
Hearing in re.....	123
Text of bill (S. 2402).....	123
Report of Commissioners, District of Columbia.....	125
Health officer, report and statement in re.....	137
Substitute bills of health officer.....	129, 130
Milk dealers, statements of.....	149-172
Savings banks, letter of C. H. Davidige in re taxation of.....	12
Schedules of street railways.....	110
Scott, Rev. Dr. O. J. W., statement in re extension of Great Falls and Old Dominion Railroad.....	257
Smith, Franklin W., statement in re erection of buildings on the Mall.....	332
Somers, Elizabeth J., statement in re extension of Great Falls and Old Dominion Railroad.....	249
Spohn, Milford, statement in re extension of Great Falls and Old Dominion Railroad.....	220
Sternberg, Gen. George M., statement in re nuisances.....	47
Stewart, Hon. William M., statement in re sanitary dairy products in the District of Columbia.....	158-172

	Page.
Street railways in the District of Columbia—	
To regulate the operation of, etc.....	75
Chairman's statement and text of bill.....	75, 76
Coldren, F. G., statement in re.....	89, 110
Dunlop, G. T., statement in re.....	94, 110
Harries, Gen. G. H., statement in re.....	87
Henderson, W. G., statement in re.....	78, 110
Hooper, L. L., statement in re.....	82
McLaughlin, A. E., statement in re.....	84
Truesdell, George, statement in re.....	107
Schedules of.....	110
Citizen's associations, arguments of, in re—	
Schedules.....	110
Charters.....	112
Transfers.....	113
Weight of cars.....	113
Suburban service.....	114
Taxation in the District of Columbia:	
Proposed amendment to law in re.....	3
Statement of H. H. Darneille in re.....	5
Of street railway companies.....	14
Of vessels, etc.....	16
Of capital stock.....	17
Of companies receiving no special franchise.....	17
Of building associations.....	20
Sale of distrained goods.....	21
Thompson, Corbin, statement in re sanitary dairy products.....	149, 170
Trundle, A. S., statement in re sanitary dairy products.....	150, 151
Truesdell, George, statement in re street railways in the District of Columbia.....	107
Transfers of street-railway companies.....	113
Tucker, Evan H., statement in re extension of Great Falls and Old Dominion Railroad.....	218
Washington Architectural Club, resolutions adopted in re erection of buildings on the Mall.....	300
Weller, M. I., statement in re extension of Great Falls and Old Dominion Railroad.....	254
Williams, H. E., statement in re extension of Great Falls and Old Dominion Railroad.....	239
Williams, W. Mosby, statement in re extension of Great Falls and Old Dominion Railroad.....	214
Wilson, Hon. James, letter of, in re erection of buildings on the Mall.....	301
Wood, J. M., statement in re extension of Great Falls and Old Dominion Railroad.....	238
Woodward, S. W., statement in re nuisances.....	40
Woodward, W. C., statement in re nuisances.....	66
Yoder, S. S., statement in re extension of Great Falls and Old Dominion Railroad.....	216

HEARING

BEFORE THE

1

COMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

UNITED STATES SENATE,

Monday, February 29, 1904,

ON THE

BILL (S. 2879) TO AMEND THE LAW RELATING TO TAXATION
IN THE DISTRICT OF COLUMBIA.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

TAXATION IN THE DISTRICT OF COLUMBIA.

COMMITTEE ON THE DISTRICT OF COLUMBIA,
UNITED STATES SENATE,
Washington, D. C., February 29, 1904.

The committee having under consideration the bill (S. 2879) to amend the law relating to taxation in the District of Columbia, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, beginning with the fiscal year commencing July first, nineteen hundred and four, the board of personal tax appeals of the District of Columbia shall convene on the first Monday in February of each year and continue in session to and including the second Monday in March of each year, instead of convening on the fifteenth day of November and continuing in session until the fifteenth day of December in each year, as now provided by law.

SEC. 2. That hereafter art galleries in the District of Columbia which, in the judgment of said Commissioners of said District, are of sufficient value, size, and merit to be of general interest to the public, and which are open to the public free of charge for at least two hours a day two days of each week, shall be exempt from personal taxation.

SEC. 3. That the Commissioners of the District of Columbia are hereby authorized to remit penalty and interest, or either, on general and special taxes in the District of Columbia when, in their judgment, the request for such remission shall be for causes deemed equitable and just.

SEC. 4. That the act of Congress approved July first, nineteen hundred and two, entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes," is hereby amended as follows:

In section six, at the end of paragraph seven, add—

"That hereafter, beginning with the fiscal year commencing July first, nineteen hundred and four, incorporated savings banks paying interest to their depositors shall, through their president or cashier, make affidavit to the board of personal-tax appraisers on or before the first day of August in each year as to the amount of their gross earnings, less the amount paid as interest to their depositors for the preceding year ending June thirtieth, and shall pay thereon to the collector of taxes of the District of Columbia four per centum per annum."

In section six the proviso of paragraph eight is hereby amended so as to read as follows:

"*Provided*, That nothing in this act contained shall be construed to include newspaper, real estate, mercantile, and other business companies, which by reason of incorporation receive no special franchise or privilege, but all such corporations shall be rated, assessed, and taxed as individuals conducting business in similar lines are rated, assessed, and taxed."

Section six, paragraph nine, is hereby amended so as to read as follows:

"Building associations shall pay to the collector of taxes of the District of Columbia one and one-half per centum per annum on their gross earnings for the preceding year ending June thirtieth."

In section six the second portion of paragraph ten is hereby amended so as to read as follows:

"Second. Libraries, schoolbooks, wearing apparel, articles of personal adornment, and all family portraits."

Section seven, paragraph forty-five, is hereby amended by adding thereto the following:

"That hereafter proprietors of bowling alleys in the District of Columbia shall pay to the collector of taxes of said District an annual license tax of ten dollars for each alley."

SEC. 5. That hereafter when the collector of taxes shall distrain any goods and chattels in order to enforce payment of taxes levied under the aforesaid act, approved July first, nineteen hundred and two, the goods and chattels so seized shall be stored in a safe and convenient place until the day of the sale thereof; and the sale of said goods and chattels shall be at public auction, at such place as the collector of taxes may designate, and by a duly licensed auctioneer, who shall be allowed and paid for his services a commission not exceeding five per centum of the amount of sale, which shall be added to and treated as part of the penalty and costs: *Provided, however,* That no such goods and chattels shall be sold upon any bid not sufficient to meet the amount of tax, penalty, and costs; but in case the highest bid therefor is not sufficient to meet the amount of tax, penalty, and costs thereon, said property thereupon shall be bid off by the said collector of taxes, in the name of and by the District of Columbia, and the Commissioners of the District of Columbia may sell the same at private sale to satisfy the tax, penalty, and costs thereafter without further notice.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Present: Senators Gallinger (chairman), Hansbrough, Foster (of Washington), Foraker, Scott, Gamble, Martin, Mallory, and Simmons.

The CHAIRMAN. The committee will come to order.

A few days ago we had a preliminary meeting for the consideration of Senate bill No. 2879, to amend the law relating to taxation in the District of Columbia, and we made some little progress. I think, however, that it would be better at this time to begin de nova, and give the bill a thorough consideration, taking it up section by section. I have invited the assessor of the District of Columbia, Mr. Darneille, to be present this morning, and I desire him to favor us with a brief preliminary statement as to the necessity for this legislation and as to the particular features of this bill. It will be remembered that two years ago, on the District of Columbia appropriation bill, we passed legislation with reference to personal taxation in the District of Columbia, there having been no law upon that subject prior to that time, and this bill, I notice, contemplates a change of that law in several particulars.

Senator MARTIN. Mr. Chairman, before Mr. Darneille commences his statement I desire to make a statement. I do not know that it is germane to this bill, but I will allude to it anyhow. I have not read the bill. There is no tax in the District of Columbia on a grant of charters to corporations, nor is there any tax on franchises. In my State, for instance, when you get a charter you have to pay a tax; then you have to pay an annual tax for the use of that franchise, beside a tax on your income and your capital. Now, there is no advantage to the District of Columbia to do business for nothing, and in view of the fact that such a law is in effect in the adjacent States I think there ought to be some legislation upon that subject.

The CHAIRMAN. I will state that that matter has been called to my attention by several parties, and I in turn have called it to the attention of the Commissioners of the District of Columbia. There is no question that such legislation is very necessary, and the Commissioners have said to me that they are having a bill prepared upon that subject. They informed me of this fact some time ago, and I have wondered why the bill has not been presented.

Mr. DARNEILLE. Mr. Chairman, there is a special bill now pending in the House, which will probably be over here after March 14.

Senator MARTIN. I merely mentioned that in passing.

Mr. DARNEILLE. There is a special bill in course of preparation and now pending in the House on this subject, and when it has received consideration there it will doubtless be sent to the Senate for its consideration. I do not think it is germane to the present tax law. In my opinion it is better not to take care of that matter at this time.

Senator SIMMONS. Mr. Chairman, do you not think we will get along a little better by taking this bill up by sections, and then allow Mr. Darneille to explain the subject-matter of each section as we reach it?

The CHAIRMAN. I had thought that we would allow Mr. Darneille to occupy about five minutes in a general statement upon the bill, and then take it up section by section. The bill appears in full at the beginning of this report.

STATEMENT OF H. H. DARNEILLE, ASSESSOR, DISTRICT OF COLUMBIA.

Mr. DARNEILLE. Mr. Chairman and gentlemen of the committee, as a good many of you probably remember, about two years ago I was sent for by the then chairman of this committee (Senator McMillan), and directed to frame a personal tax law for the District of Columbia, and while this committee was the real father of this bill, I was the mother of it. I had to nourish it along and help it. Finally, this committee transferred jurisdiction on the subject to the Senate Appropriations Committee—you passed it favorably and sent it over to the Appropriations Committee through the then chairman, Senator McMillan. I drew this bill after going over the subject very carefully and thoroughly with this committee, and it covered, as you all then thought, what was necessary to be taxed, by personal tax, in the District of Columbia.

I have watched the operation of this law very carefully for very nearly two years, and without the suggestion of any living being have made these little amendments, which I think curative in effect of the defects of the present law, and have gotten the Commissioners of the District of Columbia, after carefully considering the same, to forward them to you for favorable action. The House of Representatives, without hearing me at first, took the matter up and passed unfavorably upon it, thinking there was a desire by somebody to favor corporations, which was not the fact. The House committee reported it to the House with amendments, which were exactly opposite to what we wished, and afterwards, by request, had it recommitted to the committee, and after a full hearing last Thursday I have been informed that they about agreed exactly with what was desired.

The law now provides that real estate, mercantile, and newspaper corporations shall be assessed and taxed as individuals carrying on the same line of business are taxed. I thought the language ought to be a little broader, because it did not cover all that we wished covered in its provisions. For instance, there are certain little express companies in this city; one is incorporated and one is not. At least several are incorporated and several are not. There are also jewelry stores here, several being incorporated and several not. There are lithographers here who do not come under the clause relating to corpora-

tions that are mercantile. There are a good many lithographers who are not incorporated.

Now, the purpose of this amendment is to include those few who, by reason of their incorporation, receive no especial advantage or benefit. There are small partnerships in this city doing business which are incorporated for convenience, the reason for which you all understand. There is no reason to explain that to this committee. They are simply incorporated for business convenience and receive absolutely nothing in return for their incorporation. To tax them differently, I think, is manifestly unjust, and it was without a suggestion from anybody that I framed this amendment to cover, as I thought best, such cases. The Norris Peters Company pay a tax on its capital stock, and the Andrew B. Graham Company, next door, pays on what the appraisers can find. I think they all ought to be taxed on the same basis.

Senator HANSBROUGH. They are merely private firms, are they?

Mr. DARNEILLE. They are simply private firms incorporated to keep each other from incurring debts for which the other would be held. There have been cases in the District of Columbia where the head of a firm has died and his heirs, being minor children, have suffered, while the other member of the firm, not being as strictly conscientious as he should be, has benefited thereby.

The CHAIRMAN. We will get at that in the regular order. Perhaps the statement you have already made will be sufficient upon that subject. It will be recalled that at our previous meeting a motion to strike out section 2 was adopted. I will read section 2 of the bill:

SEC. 2. That hereafter art galleries in the District of Columbia which, in the judgment of said Commissioners of said District, are of sufficient value, size, and merit to be of general interest to the public, and which are open to the public free of charge for at least two hours a day two days of each week, shall be exempt from personal taxation.

As I have said, that section was stricken out by the committee at its last meeting. Since that time I have received from Mr. T. C. Daniel—I think that is his name—

Mr. DARNEILLE. T. Cushing Daniel?

The CHAIRMAN. T. Cushing Daniel. He called on me personally and I said to him that I thought the committee would adhere to its former action, but that if he had a suggestion to make in writing he was at liberty to do so. Mr. Daniel has sent me three proposed substitutes for that section, which I will read.

The chairman read the proposed substitutes, as follows:

1. Galleries of art established in the District of Columbia, composed of large collections of works of high merit exceeding a cost of ———, open to the public free, except on occasions when an admission fee is charged for charitable purposes, and from which nothing is offered for sale, shall be exempt from taxation.

2. Galleries of art embracing collections of not less than ——— in value, established in the District of Columbia, and are open to the public free of charge, and from which nothing is offered for sale, shall be exempt from taxation.

3. Galleries of art in the District of Columbia, and from which nothing is offered for sale, and are open to the public without a charge by the owner or owners thereof, shall be exempt from taxation.

The CHAIRMAN. As I recall it, Mr. Darneille at our former hearing was unable to direct our attention to any galleries that it was desirable we should exempt, except one gallery, which since then has been turned over to the Georgetown University.

Mr. DARNEILLE. That was Thomas E. Waggaman's gallery?

The CHAIRMAN. Yes; and as far as my investigation has gone—and I have made a little inquiry upon the subject—I do not think there are any galleries that are now established, or which are likely to be established here, that we ought to exempt.

Senator FORAKER. The Corcoran Art Gallery is exempt.

The CHAIRMAN. Yes. The question now is, shall we strike out section 2? What is your judgment with regard to that, Mr. Darneille?

Mr. DARNEILLE. Of course at present I know of no gallery that will benefit by that section. When I prepared that amendment, the Waggaman gallery was in mind. Of course there may be one shortly that will be just as meritorious as the Waggaman gallery. It will certainly do no harm to put that amendment in.

Senator FORAKER. It would be an encouragement to establish galleries.

Senator MARTIN. But let it be known that works of art are not for sale.

Senator FORAKER. I was in Philadelphia a few days ago and called upon a gentleman who has a wonderful collection of pictures there. He said he paid \$1,600,000 in cash for what he had on the walls. Of course that is a very valuable collection and I do not know that there is any such thing in Washington. I think it would be an encouragement to men who are collectors of art to go on with it, perhaps.

Senator MALIORY. I would like to have the proposed substitute of Mr. Daniel again read.

The CHAIRMAN. The second proposed substitute suggested by Mr. Daniel is as follows:

Galleries of art, embracing collections of not less than ——— in value, established in the District of Columbia and are open to the public free of charge, and from which nothing is offered for sale, shall be exempt from taxation.

Senator MARTIN. I see no objection to that.

Senator SIMMONS. Why is not the provision in the present bill equally as good or better than that? This section says "which, in the judgment of said Commissioners of said District, are of sufficient value, size, and merit," etc.

Senator FORAKER. That is, in a sense, delegating the legislative power to the Commissioners of the District of Columbia. They are to exercise the discretion instead of the legislative body.

Senator SIMMONS. That is to be determined under that provision.

Senator FORAKER. Where there is a collection and nothing is offered for sale, and it is open to the public, that is all there is of it.

Mr. DARNEILLE. The trouble is that the party might say "This is open to the public."

Senator MARTIN. Yes; and any tramp might consider that he had a right to go into a man's house. I think that is a different proposition.

Senator FORAKER. I do not think it would be right to intrust a discretion such as that to any but the legislative authority. That is certainly a delegation of legislative power. You can trust to any set of officers the duty of ascertaining any set of facts, of course.

Senator SIMMONS. Is that not what this is? It says "of sufficient value, size, and merit."

Senator FORAKER. That is the sense of it, of course. It is a matter of opinion as to merit.

Senator SIMMONS. That must be a finding of fact, however.

Senator FORAKER. It is a finding of fact that it is a gallery, but it is not a finding of fact as to merit, etc.

Senator MALLORY. That word "judgment" leaves a very large discretion to the Commissioners.

Senator FORAKER. It is not very important that anything should be in, perhaps. The only idea is that it would be in the nature of encouragement to people to make such collections when they know they will not be taxed.

Senator SIMMONS. The only point I make is this: I am heartily in favor of the suggestion that it would be an encouragement to people to throw open the galleries to the public, but a man might have an insignificant gallery that nobody would care to visit that he would occasionally throw open to the public simply for the purpose of getting rid of the tax, and he would get rid of the tax and the public would derive no benefit from it whatever.

Senator FORAKER. The point there would be that the public would not lose much if it was an insignificant gallery—insignificant in importance and merit—it would not be taxed so much anyhow.

The CHAIRMAN. It seems to me that the provision that he can not offer the pictures for sale would be a protection. There are some small galleries along F street, as I recall, to which the public is invited from time to time, but they are in connection with stores.

Senator FORAKER. Mr. Veerhoff has a very interesting collection, but he makes sales from his collection.

Senator MARTIN. There is one danger of abuse, and that is that a private individual can claim that his private gallery is open to inspection, in order to avoid the tax; but I do not think anybody would hazard his gallery or his reputation by doing that. May I ask that the language of the proposed amendment be read again?

The CHAIRMAN. It is as follows:

Galleries of art embracing collections of not less than ——— in value, established in the District of Columbia, and are open to the public free of charge, and from which nothing is offered for sale, shall be exempt from taxation.

Senator HANSBROUGH. What about the collections of art that are displayed here for sale?

Mr. DARNEILLE. They are taxable according to their value.

Senator HANSBROUGH. I have in mind the newspaper artists who have displayed their collection at the Arlington Hotel within the last few days. I know I was one of the subscribers.

Mr. DARNEILLE. They are taxable under this paragraph.

After the passage of this act it shall be unlawful for any person or persons entering the District of Columbia subsequent to June thirtieth in each year, and establishing a place of business for the sale of goods, wares, or merchandise, either at private sale or at auction, to conduct such business until a sworn statement of the value of said stock has been filed with the assessor of the District of Columbia, who shall thereupon render a bill for the unexpired portion of the fiscal year at the same rate as other personal taxes are levied. The assessor is hereby authorized to reassess said stock whenever in his judgment it has been undervalued.

The goods, wares, and merchandise of any person or persons who shall fail to pay the tax required by this paragraph within three days after beginning business shall be subject to distraint, and it shall be the duty of the assessor to place bills therefor in the hands of the collector of taxes, who shall seize sufficient of the goods of the delinquent to satisfy said tax: *Provided*, That said owner shall have the right of redemption within thirty days on payment of said tax, to which shall be added a penalty of one per centum, together with the costs of seizure. The collector shall sell such goods as are not redeemed at public auction, after advertisement for the three days preceding said sale.

The CHAIRMAN. If this provision, which I have read two or three times, should be inserted in this bill, would it not devolve upon you Mr. Darneille, to determine whether or not any galleries that might be open complied with the provisions of this act?

Mr. DARNEILLE. Technically, yes; but if I made a decision which I thought was fair, but which they thought was not fair, that would throw us into the courts. They might say that they did not agree with me.

Senator MARTIN. Well, I think that is right. Everybody ought to have that privilege.

Mr. DARNEILLE. We want to keep out of the courts as much as possible. All the way throughout this section there is a discretion vested in the board of personal tax appraisers, and the action of the board of appeals is final; but the action of the board of appeals might throw it into court upon a matter of technical law.

The CHAIRMAN. It would not take the board of personal tax appeals long to construe the word "public" as meaning the entire public, would it?

Mr. DARNEILLE. No; but people might have pictures worth about \$10,000 or \$15,000 on their premises that would not be of interest to the public in any way, shape, or form. They would say, "We keep our place open to the public." But if the public did not care to go there they would escape the taxation on the pictures around the house.

Senator SIMMONS. I suggest as an amendment, to add after the words, "which in the judgment of said Commissioners of said District are of sufficient value, size, and merit to be of general interest to the public," the words, "none of which are for sale."

Senator MALLORY. That immediately confronts the objection of Senator Foraker, and I am inclined to agree with him. I am opposed to vesting that legislative judgment in the judgment of the Commissioners. It seems to me it is giving them too much power. While, of course, the present Commissioners of the District of Columbia are admirable men and would not be guilty of any wrong or injustice, still we would be legislating for men who might be able to do so, and under this provision the Commissioners could make very invidious distinctions between individuals. They might conclude that one man's set of pictures is of sufficient value, size, and merit, while that of another man, whose collection is worth \$60,000, is not. I do not think that would stand in the Senate anyhow. I am inclined to think there would be a good deal of comment upon it.

Senator SIMMONS. I will withdraw my amendment, Mr. Chairman.

Senator HANSBROUGH. I move to strike out the entire section.

The question being put on the motion of Senator Hansbrough to strike out the entire section, it was agreed to.

The Chairman read section 3, as follows:

SEC. 3. That the Commissioners of the District of Columbia are hereby authorized to remit penalty and interest, or either, on general and special taxes in the District of Columbia when, in their judgment, the remission shall be for causes deemed equitable and just.

The CHAIRMAN. Mr. Darneille, please state to the committee the necessity for that section.

Mr. DARNEILLE. It often happens that a man will come into the office—it has happened before we put the card system in operation, though it is not very possible now; still, it might happen even now—

intending to pay all of his taxes. He would ask for all, but would not get all. There would be a year or a half a year's taxes left out of his bill, and he would not find that out for two or three years, or possibly five years afterwards. People have come five years prior to that time with the money and with the intent to pay all they owed to the District of Columbia, but did not get what they wanted. There is at present no power to grant relief and allow those people to pay as of the day they came there intending to pay, without penalty and interest.

Senator SIMMONS. Why were they not given what they asked for at the time? Was it through carelessness of the officials or the clerks?

Mr. DARNEILLE. No; the records were in such a state that they could not get it.

Senator FORAKER. I had just such an experience myself. I bought a piece of property here and had a great deal of trouble in running it down to ascertain how the taxes stood on the property.

Mr. DARNEILLE. I remember that, Senator. After I was appointed to the office of assessor I immediately took steps to keep that from recurring. At the present time the percentage is very small. We have not had anything of that kind happen within the past year, on account of the operation of the card system.

The CHAIRMAN. Would it not be well to limit that to the penalties and interest up to the present time and make the assessor responsible for keeping his books correctly in the future?

Senator MARTIN. It is never any hardship to release a man from a penalty. Give them a discretionary power not to release them from the debt, but from the penalty. I do not think that will work any injustice.

Mr. DARNEILLE. I desire to state to the committee that I am bonded for the proper conduct of my office and the keeping of those books, and until I have the pick of the people employed under me I could not, and I would not, accept responsibility from any tribunal for the mistakes of people whom I could not select to fill the positions.

Senator HANSBROUGH. I move to insert after the word "just," at the end of the seventh line, the words "and shall be supported by the affidavit of the person or persons making such requests setting forth all of the facts of the case." I think when a man wants a remission of his taxes he ought to swear to the facts.

Mr. DARNEILLE. They are required to do that now.

Senator MARTIN. Your proposition is that after the word "just" the affidavit of the claimant should be provided for?

Senator FORAKER. Yes; that the requests shall be for causes established by legal evidence.

Senator MARTIN. I think it means that now.

Senator FORAKER. I think so, too. I suggest that we insert after the word "just," in line 7, the words "and shall be by sworn evidence."

The CHAIRMAN. The Senator from Ohio proposes as an amendment to insert after the word "just," in line 7 of section 3, the words "and established by sworn evidence."

Senator HANSBROUGH. I will withdraw my amendment in view of the amendment of Senator Foraker.

The CHAIRMAN. The question is on the amendment of Senator Foraker.

The amendment was agreed to.

The CHAIRMAN. The question now is upon the adoption of the section as amended.

The section as amended was agreed to.

Senator HANSBROUGH. I desire to call the attention of the committee to the first section. I suppose there is no objection to the change in the time there that is required by the board of personal tax appeals to convene?

The CHAIRMAN. The section says "beginning with the fiscal year commencing July 1, 1904."

Mr. DARNEILLE. That was agreed to at the meeting before the last one.

The chairman read section 4 of the bill, as follows:

SEC. 4. That the act of Congress approved July first, nineteen hundred and two, entitled "An act making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes," is hereby amended as follows:

In section six, at the end of paragraph seven, add—

"That hereafter, beginning with the fiscal year commencing July first, nineteen hundred and four, incorporated savings banks paying interest to their depositors shall, through their president or cashier, make affidavit to the board of personal tax appraisers on or before the first day of August in each year as to the amount of their gross earnings, less the amount paid as interest to their depositors for the preceding year ending June thirtieth, and shall pay thereon to the collector of taxes of the District of Columbia four per centum per annum.

Senator MARTIN. The language "make affidavit to the board" is rather vague. "Make affidavit to the finding of the board" would be better.

The CHAIRMAN. I will read paragraph 6 of the law, so that you can understand what the existing law is.

PAR. 6. All companies who guarantee the fidelity of any individual or individuals, such as bonding companies, shall pay to the collector of taxes of the District of Columbia one and one-half per centum of their gross receipts in the District of Columbia.

Mr. DARNEILLE. The condition that we are trying to relieve with regard to the savings banks is in paragraph 5, "and all other incorporated banks and trust companies in the District of Columbia." It is paragraph 5 of section 6.

The CHAIRMAN. I will read paragraph 5 of section 6.

The chairman read as follows:

PAR. 5. Each national bank as the trustee for its stockholders, through its president or cashier, and all other incorporated banks and trust companies in the District of Columbia, through their presidents or cashiers, and all gas, electric lighting, and telephone companies, through their proper officers, shall make affidavit to the board of personal tax appraisers on or before the first day of August each year as to the amount of its or their gross earnings for the preceding year ending the thirtieth day of June, and shall pay to the collector of taxes of the District of Columbia per annum on such gross earnings as follows: Each national bank and all other incorporated banks and trust companies, respectively, six per centum; each gas company, five per centum; each electric lighting and telephone company, four per centum. And in addition thereto the real estate owned by each national or other incorporated bank, and each trust, gas, electric-lighting, and telephone company in the District of Columbia shall be taxed as other real estate in said District: *Provided*, That street railroad companies shall continue to pay the four per centum per annum on their gross receipts and other taxes as provided by existing law, and insurance companies shall continue to pay the one and one-half per centum on premium receipts, as provided by section six hundred and fifty of the Code of the District of Columbia. That so much of the act approved October first, eighteen hundred and ninety, entitled "An act to provide for the incorporation of trust, loan, mortgage, and certain other corporations within the District of Columbia" as is inconsistent with the provisions of this section is hereby repealed.

The CHAIRMAN. Is there a provision in that for savings banks?

Mr. DARNEILLE. Yes; incorporated savings banks. You will see it near the top of the page. They are required to pay 6 per centum, the same as a national bank or trust company.

Senator SIMMONS. That is why they have capital stock?

Mr. DARNEILLE. Yes.

Senator SIMMONS. And where they have no capital stock they pay 5 per centum?

Mr. DARNEILLE. They pay $1\frac{1}{2}$ instead of 6 per cent.

The CHAIRMAN. I desire to read to the committee, to be inserted in the record, a letter from the treasurer of the Washington Savings Bank, of this city.

The chairman read as follows:

WASHINGTON SAVINGS BANK,
Washington, D. C., February 23, 1904.

Hon. J. H. GALLINGER,

Chairman Senate Committee on the District of Columbia, Washington, D. C.

DEAR SIR: I beg to respectfully call your attention to the law concerning the taxation of savings banks in the District of Columbia now in force, to the amendments thereto proposed by the Commissioners of the District, and to such views as my position as treasurer of one of the Washington savings banks suggests.

I wish to call your attention to this matter at this time in view of the consideration to be given the subject by your honorable committee at an early day, and on account of its serious importance to a young, growing financial institution.

I will endeavor not to consume too much of your valuable time by going into the details of the present law, except to point out its burdensome and oppressive features, together with the excessive rate of taxation imposed.

We hold that, as we own the building in which our bank is located, upon which we pay an annual real-estate tax of \$522.44, we should not have to pay an additional tax of 6 per cent on the rentals received from said building, such rentals constituting a part of our gross profits, as such rentals would not be taxed if the building were owned by a private individual—a very glaring inequality and injustice as between taxpayers.

We hold that the tax on the amount paid to our numerous small depositors in the way of interest should also certainly not be taxed. We further hold that the tax on our entire gross profits at the rate of 6 per cent, without any exemptions, is excessive, unreasonable, and burdensome. The rate of taxation should either be reduced, as the Commissioners recommend, or the exemptions should be increased. And I will take the liberty of suggesting that all private banks and savings banks doing business in the District of Columbia be allowed an exemption of, say, \$10,000 for legitimate expenses, and that the excess of gross profits only, over and above that amount, be taxed at the rate of 6 per cent; or that the entire gross profits be taxed at the rate of 3 per cent; or that a special license tax of \$500 or \$600 be imposed in lieu of all other taxes on gross profits.

You will readily understand that under the present law we would have to pay a tax on our gross profits, notwithstanding the fact that our expenses might exceed that amount, which, of course, would not be just, but for which, under existing law, there is no remedy or relief.

While we have our own private interests in view in operating our banking institutions, we do not lose sight of the interests of our numerous small depositors, and wish to contribute to their welfare as far as we can without prejudice to ourselves, and also hope by our policy to encourage habits of thrift and economy among the class of people with whom we do business. The amount of our personal tax for 1902 was \$1,005.78; the same tax for 1903 will be \$1,264.08, in addition to the tax of \$522.44 paid each year on our bank building.

We have no desire to be relieved entirely of taxation. We will cheerfully acquiesce in what seems fair and equitable, but the present charge is unreasonable, excessive, and burdensome, and, in fact, is almost prohibitive.

Hoping that I have pointed out some of the burdensome and objectionable features of the present law and suggested some measures of relief, and that my petition may receive your generous consideration, I am,

Very truly,

C. H. DAVIDGE, *Treasurer.*

The CHAIRMAN. Mr. Darneille, are you of opinion that the reduction from 6 to 4 per cent would give the relief that Mr. Davidge asks for, and which you and the Commissioners have recommended in this bill?

Mr. DARNEILLE. It would not give the relief that he has asked for. Congress in its wisdom decided that instead of paying 1½ per cent on the capital stock they would charge them so much on their gross earnings. Anything that goes to the earnings of the bank they are properly chargeable with; that is, the gross earnings. The rent goes in as an earning of the bank, and under this law they have to pay taxes on that. I think if your committee should adopt this reduction from 6 to 4 per cent it would be equitable and just.

Senator MARTIN. It takes off a third.

Senator MALLORY. Do all the banks own the buildings in which they carry on business?

Mr. DARNEILLE. No; not all of them. It is a great source of revenue where they do, however.

Senator SIMMONS. Under that section are savings banks, having capital stock, exactly on a parity with other banks?

Mr. DARNEILLE. Yes, sir.

Senator SIMMONS. Now, under this bill they will not only be given 2 per cent ~~less~~ ^{more} advantage in the matter of taxation but they will not be taxed on the interest that they pay.

Mr. DARNEILLE. I will tell you about that.

Mr. Darneille here made a statement outside of the record.

The CHAIRMAN. The chair will now put the question on the adoption of section 4.

The section was agreed to.

Senator SIMMONS. I want to say that I agree to that with the understanding that it was to be put in there for the purpose of conference only.

Senator FORAKER. I move to strike out the word "affidavit" and insert the words "report under oath," so as to make that section read, "report under oath to the board of personal tax appraisers." They ought to have some prescribed form for such an oath.

Mr. DARNEILLE. The language suggested in the preceding paragraph of the law makes that clear.

The CHAIRMAN. Without objection that amendment will be agreed to.

There was no objection.

Senator SIMMONS. Before we proceed further, Mr. Darneille has handed me a couple of amendments which he desires inserted in section 6, the paragraph just preceding this one. It is section 6, paragraph 5. One of them is in this language:

Amend paragraph six of section six so that the same will read as follows:

"All incorporated companies who guarantee the fidelity of any individual or individuals, such as bonding companies, and all companies who furnish abstracts of titles to real property, or who insure real estate titles, shall pay to the collector of taxes of the District of Columbia one and one-half per centum of their gross receipts in the District of Columbia."

That enlarges this bill to what extent?

Mr. DARNEILLE. I will explain that. This was done to cover any business of corporations which receive any special franchises or privileges, and the Commissioners directed me to formulate that little amend-

ment that these companies in Washington which guarantee titles and search titles—title-guarantee companies, as they are called—should not get off, but should come in just as bonding companies. There are certain lawyers in Washington who are engaged in the business of searching titles—doing the same kind of business. We were afraid that they would get off under other business corporations doing business as individuals, who are reached as individuals, if we did not put in that proviso. Therefore that was framed to cover that contingency. It only taxes such companies as bonding companies and all companies who furnish abstracts of title to real estate, or who insure real estate titles, requiring that they shall pay to the collector of taxes—

Senator MARTIN. Had you better not say "incorporated" companies?

Mr. DARNEILLE. They all are incorporated as a matter of fact.

Senator FORAKER. I think that amendment makes it clearer.

Senator SIMMONS. Yes; it is not in the original act, but it should be inserted.

Senator MARTIN. I move that we insert the word "incorporated" in the bill.

Senator HANSBROUGH. I think that is a very important amendment.

Senator MARTIN. It is easy to explain what is intended by putting in the word "incorporated."

The CHAIRMAN. Is there objection to that becoming a part of this bill? The sections will be numbered after we get through with the bill. The amendment suggested is to insert the word "incorporated."

The amendment was agreed to.

Senator SIMMONS. I have another amendment which Mr. Darneille suggests.

Senator Simmons read the proposed amendment, as follows:

That that part of the proviso in paragraph five, section six, relating to street railroad companies shall be intended to mean that all street railroad companies shall pay four per centum per annum on their gross receipts, and other taxes as provided by existing law.

Senator SIMMONS. Do you intend that as an amendment?

Mr. DARNEILLE. Yes. The present law says: "*Provided*, That street railroad companies shall continue to pay four per centum." With regard to that, I desire to say that while General Harries did not intend to do so, still he did mislead the committee. The committee evidently thought all the companies were then paying 4 per cent. We have had a little hitch on that account in the last year over the railroad returns. About \$30,000 remains unpaid, and the hitch was on account of those words, "shall continue to pay."

The CHAIRMAN. Do you desire the words "continue to pay" stricken out?

Mr. DARNEILLE. Yes, sir; but this amendment which I have proposed, covers that.

Senator MARTIN. This language should be changed. It is rather untechnical language for a statute. It should read, "shall be construed to mean."

Senator SIMMONS. That is a matter of verbiage.

Senator MARTIN. Yes; it is purely a matter of verbiage.

The amendment to the amendment was agreed to, so as to make the paragraph read as follows:

That that part of the proviso in paragraph five, section six, relating to street railroads "shall be construed to mean that all street railroad companies shall pay four per centum per annum on their gross receipts and other taxes as provided by existing law."

Senator MALLORY. Can you not amend that by striking out the words "continue to?"

Mr. DARNEILLE. This amendment will construe that as meaning from the time it was passed.

Senator MALLORY. I doubt very much if we can make any retroactive enactments of that kind.

Mr. DARNEILLE. I do not think it would be retroactive.

Senator MALLORY. Under the language of the present law, if they are not compelled to pay can we say that, notwithstanding what a court may decide, they shall pay, and compel them to pay?

Mr. DARNEILLE. We can not compel them to pay if it is not put in the law.

The CHAIRMAN. I remember the discussion very well. We assumed that the street railroads would pay 4 per cent after the passage of the law. There is no doubt about that. Is there objection to the proposed amendment?

Senator SIMMONS. The amendment is that that part of the proviso, in paragraph 5, section 6, relating to street railroads shall be construed to mean that all street railroad companies shall pay 4 per cent per annum on their gross receipts, and other taxes as provided by existing law.

The amendment was agreed to.

Senator FORAKER. I understood you to read the amendment "should be construed." It should be "shall be construed."

Senator SIMMONS. It is "shall be construed."

The CHAIRMAN. Are there further amendments?

Senator SIMMONS. I do not think there are to that section. Are there, Mr. Darneille?

Mr. DARNEILLE. I do not think there are, only the one relating to liquor licenses.

The CHAIRMAN. You have further amendments not included here.

Mr. DARNEILLE. Not in this portion, but in the other, that the Commissioners sent up.

Senator SIMMONS. I have another amendment to section 6, paragraph 3, line 4.

Senator MALLORY. We have not that line.

Senator SIMMONS. No. But it is this part of the bill. The law now reads that—

After the passage of this act it shall be unlawful for any person or persons entering the District of Columbia subsequent to June thirtieth in each year and establishing a place of business for the sale of goods, wares, or merchandise, either at private sale or at auction, to conduct such business until a sworn statement of the value of said stock has been filed with the assessor of the District of Columbia, who shall thereupon render a bill, &c.

It is suggested to amend that so as to have it read:

After the passage of this act it shall be unlawful for any person or persons entering the District of Columbia subsequent to June thirtieth in each year, and establishing a place of business for the sale of goods, wares, or merchandise, either at private sale

or public auction, or engaging in the business of common carriers by vessels, ships or boats, to conduct such business until a sworn statement of the value of such stock, vessels, ships, and boats has been filed with the assessor of the District of Columbia, who shall thereupon render a bill for the unexpired portion of the fiscal year at the same rate as other personal taxes are levied: *Provided*, That this shall not apply to vessels, ships, or boats if it shall be made to appear by affidavit that any vessel, ship, or boat has been assessed for taxation and the taxes paid elsewhere.

That, Mr. Chairman, was handed to me by a gentleman who said that he had submitted it to Mr. Darneille.

Mr. DARNEILLE. I got it by mail this morning. It is not a District amendment. It is a private party who suggested it.

Senator MALLORY. What about the common carriers?

Mr. DARNEILLE. I am not authorized by the Commissioners of the District of Columbia to say anything about the proposed amendment, but my private opinion is that it will work no harm and may work a great deal of good. It may protect gentlemen who are doing a legitimate steamboat business—avoid an infringement of their right by outsiders—those, for instance, who leave the port of New York and come here. They do not pay taxes there; they can not be held in New York; they would snap their fingers at the tax commissioner there and at Norfolk, and we could not hold them here.

Senator MALLORY. Every vessel has a home port and the vessel is taxed at its home port.

Mr. DARNEILLE. We find that there are a great many that are not.

Senator MALLORY. You can not tax a vessel except where the owner resides at the home port. For instance, take vessels plying between Tampa and ~~New Haven~~ ^{Havana} (the *Mascot* and *Olivette*). They pay taxes at ~~New Haven~~ ^{Havana}, and Florida can not collect them. The place where the vessel is enrolled is where the taxes are paid. Possibly a great many of them avoid paying, but I think you will find what is here sought to be done an exception to a practice which prevails all over the country.

Mr. DARNEILLE. I learn that they can not catch them; that it is almost impossible to do so.

Senator MALLORY. There was a vessel out in San Francisco Harbor. It had not been home for five or six years. They tried to collect the taxes out there. The case went to the Supreme Court, and it was laid down that they could not collect taxes on her out there. I doubt whether you could tax a New York vessel here.

Mr. DARNEILLE. It is almost impossible to catch them.

Senator HANSBROUGH. You should have them furnish a certificate showing that they are taxed elsewhere, and unless they can do that, make them taxable here.

Senator MARTIN. This is an academic question. You do not know of any abuses?

Mr. DARNEILLE. I have a letter as to a company that has just started up—a company plying between Norfolk and Washington—that is interfering with the river rights between there and Washington.

Senator SIMMONS. Do they pay taxes to do business here?

Senator MALLORY. They pay taxes on the value of the vessel. It is personal property.

Senator FORAKER. Is there a provision in force here with regard to taxing the capital stock of companies who do business in the District of Columbia?

Mr. DARNEILLE. Not on their capital stock. Only bonding companies are taxed on their gross receipts in the District of Columbia.

Senator FORAKER. We have a provision in our State law covering that matter, and it is the law in nearly all, if not all, the States, whereby foreign companies wishing to do business in the State are required to make a report of their general stock and capital, and they are required to pay a tax on their general stock.

Senator MARTIN. That is so in our State.

Senator MALLORY. I have no doubt it could be done. But that would be an exception to the rule.

Senator FORAKER. A steamboat company doing business in the District of Columbia should be required to make a report of its capital stock to the tax officers.

Senator MALLORY. That is all right. But this is a tax on the value of the vessel, and, if she be a New York vessel she should pay a tax in New York.

Senator FORAKER. We should put in a provision that all foreign corporations wishing to do business in the District of Columbia should pay a tax on their capital stock. It should be made a condition precedent to their doing business in the District of Columbia.

Senator MARTIN. I have an idea that there is a general provision applying to the taxation of corporations.

Mr. DARNEILLE. No. Here is the provision. It is paragraph 8 of section 6:

The capital stock of all corporations, other than those herein provided for, organized in the District of Columbia or under the laws of any of the States or Territories of the United States chiefly for the purpose of and transacting business in the District of Columbia—

It has to be, chiefly; that is to say, we have to prove that it is chiefly for doing business in the District of Columbia before we can hold them at all. That provision has been so construed.

Senator FORAKER. Why not say, "doing business in the District of Columbia?"

Senator MARTIN. We would have to do it by some further amendment, because it would not do to put that tax on if they had their agency here and did 9 per cent of their business somewhere else—if they were doing business in 20 States, say. You could not tax them on their capital stock everywhere.

Senator FORAKER. Senator Simmons, I wish you would read that amendment again.

Senator SIMMONS. It is to add after the words "public auction" "all engaging in business of common carriers by vessels, ships, or boats."

The CHAIRMAN. Does any Senator move the adoption of that amendment? If not, we will pass it over.

Senator SIMMONS. It seems to me there ought to be some remedy. But I question, as does the Senator from Florida [Mr. Mallory], the legality of this form.

The CHAIRMAN. We will pass that over and take up the bill. The next amendment is at the head of page 3, and is as follows:

In section six the proviso of paragraph eight is hereby amended so as to read as follows:

"Provided, That nothing in this act contained shall be construed to include newspaper, real estate, mercantile, and other business companies, which by reason of incorporation receive no special franchise or privilege, but all such corporations shall be rated, assessed, and taxed as individuals conducting business in similar lines are rated, assessed, and taxed."

Senator MARTIN. They do receive a franchise and privilege. This would be inconsistent with the present law. I think it should be made homogeneous. We should leave out the other part.

Senator FORAKER. They do not receive any franchise to go upon a street.

Senator SIMMONS. The franchise they receive is merely a matter of business convenience. It seems to me they ought to put the taxation on a parity with that of all individuals.

Senator MARTIN. I do not think that it is just that A, who does business in his individual name, should be liable to the extent of his whole estate, and B, who does business as a chartered concern, be liable only for his investment. In that way B would get something from the public that is denied to his neighbor.

Mr. DARNEILLE. That is the difficulty which the committee sought so hard to get rid of before. It opens the door to favoritism and discrimination. And it is almost impossible to tell what the stock of a close corporation is. We can not tell what they are capitalized for elsewhere. But that matter will be dealt with in the bill I spoke of.

Senator SIMMONS. Is the capital stock of a corporation worth any more than its tangible property is worth?

Mr. DARNEILLE. No; I do not suppose it is.

Senator FORAKER. It might mean some privilege or franchise additional to that which follows from being incorporated, because it speaks of an incorporated company.

Senator MARTIN. "Not including public-service corporations." How would that do?

Senator FORAKER. The more I think about it the more I believe that that word "special" will be construed to mean something different from what is intended.

Senator MALLORY. Why not strike out the words "franchise or" and then add the words "special privilege?"

Senator FORAKER. Why not say "no special privilege beyond the franchise?"

Mr. DARNEILLE. I submitted an amendment to Senator Simmons, which amendment he agreed to, striking out the words "nothing in this act contained," and inserting the words "nothing in this paragraph contained," because putting in the words "other business corporations," would change the whole effect of the law.

The CHAIRMAN. It is simply an amendment of "paragraph" instead of "act"?

Mr. DARNEILLE. Yes.

Senator SIMMONS. Mr. Darneille, suppose in lieu of this tax for the privilege which they enjoy as a corporation, you put on a small franchise tax of \$10.

Mr. DARNEILLE. They are going to take care of that in the amendments to the code. But it does not come in as a personal tax. We do not consider it under the personal tax law. But it is to be taken care of in the code.

I suggest that this paragraph read—

Nothing in this paragraph contained shall be construed to include business corporations—

Because that will cover the whole case. Strike out "newspaper,

real estate, mercantile, and other business companies," because they are all business corporations, and then the paragraph will read:

Nothing in this paragraph contained shall be construed to include business corporations, which by reason of incorporation receive no special franchise or privilege, but all such corporations shall be rated, assessed, and taxed as individuals conducting business in similar lines are rated, assessed, and taxed.

All the rest are taken care of specifically in other paragraphs of this section.

Senator FORAKER. Have it read, "which by reason of or in addition to incorporation receive no special franchise or privilege."

Mr. DARNEILLE. That is all right.

Senator FORAKER. Make that change, "which by reason of or in addition to incorporation receive no special franchise or privilege." They have a franchise of course whenever they become incorporated, because certain rights flow from their incorporation.

Now, you want to make it appear that the corporations here referred to are those that have those rights, but have nothing in addition thereto; that is, they have no right to go upon the street and string wires, operate street cars, or lay gas mains, and so on.

The CHAIRMAN. The question is on the amendment in section 6 of paragraph 8 by inserting the proviso:

Provided, That nothing in this paragraph contained shall be construed to include business corporations.

Senator HANSBROUGH. "Business companies."

Mr. DARNEILLE. Yes; business companies.

The CHAIRMAN (reading):

That nothing in this paragraph contained shall be construed to include business companies, which by reason of incorporation receive no special franchise or privilege but all such corporations shall be rated, assessed, and taxed as individuals, conduct ing business in similar lines are rated, assessed, and taxed.

If there be no objection that amendment will be accepted. Now, Senator Foraker, what is your suggestion?

Senator FORAKER. After the words, "by reason of," insert the words, "or in addition to," so that it will read:

Which by reason of or in addition to incorporation receive no franchise, etc.

The CHAIRMAN. Is there objection to that amendment? There being no objection, the amendment will be inserted. So that the paragraph as amended now reads:

Provided, That nothing in this paragraph contained shall be construed to include business companies which, by reason of or in addition to incorporation, receive no special franchise or privilege, but all such corporations shall be rated, assessed, and taxed as individuals conducting business in similar lines are rated, assessed, and taxed.

The next amendment is in section 6, paragraph 9:

Building associations shall pay to the collector of taxes of the District of Columbia one and one-half per centum per annum on their gross earnings for the preceding year ending June thirtieth.

What change does that make?

Mr. DARNEILLE. At present they pay 4 per cent per annum. That is under the paragraph as it now stands. Under the amendment it would be $1\frac{1}{2}$ per cent.

Senator HANSBROUGH. The subcommittee made some suggestion there in regard to making the change so that it would be 2 per cent. Did you not, Senator Simmons?

Senator SIMMONS. Yes.

Senator GAMBLE. Why do you make it different in regard to certain associations from what it is with regard to trust companies and savings banks? Are they not in the same line? Why should not that remain 4 per cent, the same as it is with the savings banks?

Mr. DARNEILLE. The building associations are institutions for the benefit of the poor man, to enable him to purchase a home. They lend their money to their members at 4 and 5 per cent. There are one or two of them that should be made to pay 4 per cent, but a majority of them would be hurt by this tax—might be driven out of business. And they say that they will go across the river into Alexandria, where they would not be taxed that rate, and where, they say, they could do the same business that they are now doing in Washington. And that is true.

The CHAIRMAN. Why not have it read:

Building associations not engaged in the banking business shall pay a tax, etc.?

Senator FORAKER. Have they any right to engage in the banking business?

Mr. DARNEILLE. They do not engage in the banking business, but some banks claim that they do. But if you put that in there it will be impossible to find out which of them do and which do not. If you make it 2 per cent it would be equitable and just. It would be better to let one or two guilty escape than that two or three innocent ones should be punished.

Senator HANSBROUGH. Instead of 1½ per cent make it 2½ per cent per annum.

Senator FORAKER. Two per cent is enough. But the building association has a feature which the savings bank has not. The primary feature of the building association is to encourage people to build homes.

Senator HANSBROUGH. At the same time, in this District the Government pays one-half the expenses, and there is no other city in the Union where that is done.

Mr. DARNEILLE. There is no city in the Union that has the right to have that done except Washington.

The CHAIRMAN. The question is on the amendment to strike out "one and one-half" and insert "two."

The amendment was agreed to.

Mr. DARNEILLE. I would like to make one other suggestion, Mr. Chairman. We have had some trouble with the building associations. There are some of them who do business outside of the District of Columbia, and they do not want to pay a tax on the business done outside of the District. If you put it so that it will cover their entire gross earnings it will cover the whole thing.

Senator FORAKER. I think so, too.

The CHAIRMAN. Insert the word "entire" before the word "gross."

The amendment is to strike out "one and one-half," after the word "Columbia," in line 12, and insert "two," and after the word "their," in line 13, insert the word "entire." Is there objection? The chair hears none and the amendment is agreed to.

The next amendment is in section 6, the second portion of paragraph 10, to be amended so as to read as follows:

Second. Libraries, schoolbooks, wearing apparel, articles of personal adornment, and all family portraits.

What about that?

Mr. DARNEILLE. That is the present law without the word "heirlooms." The word "heirloom" has given the assessor and the appraisers in the field no end of trouble.

Senator MARTIN. I have a number of letters which a crank has written to me on that subject.

Mr. DARNEILLE. They hide behind heirlooms to cover up any old thing they own.

Senator MARTIN. They are of no value.

Mr. DARNEILLE. Sometimes they are. Strictly speaking, there are no heirlooms in this country.

The amendment was agreed to.

The CHAIRMAN. The next amendment is in section 7, to amend paragraph 45 by adding thereto the following:

That hereafter proprietors of bowling alleys in the District of Columbia shall pay to the collector of taxes of said District an annual license tax of ten dollars for each alley.

Mr. DARNEILLE. The subcommittee said it should be \$12.

Senator SIMMONS. Yes; I suggest \$12.

Mr. DARNEILLE. Bowling alleys are not in the present license law, having been omitted through inadvertence.

Senator FORAKER. It is a very modest tax; it should be twenty.

Mr. DARNEILLE. It is a pretty good tax, \$12 apiece. All kindred games, such as pool tables and billiard tables, pay \$12 apiece per annum.

Senator FORAKER. Is that so?

Mr. DARNEILLE. Yes, sir.

The amendment was agreed to.

The reading of the bill was resumed, as follows:

SEC. 5. That hereafter when the collector of taxes shall distrain any goods and chattles in order to enforce payment of taxes levied under the aforesaid Act, approved July first, nineteen hundred and two, the goods and chattles so seized shall be stored in a safe and convenient place until the day of the sale thereof; and the sale of said goods and chattles shall be at public auction, at such place as the collector of taxes may designate, and by a duly licensed auctioneer, who shall be allowed and paid for his services a commission not exceeding five per centum of the amount of sale, which shall be added to and treated as part of the penalty and costs: *Provided, however,* That no such goods and chattles shall be sold upon any bid not sufficient to meet the amount of tax, penalty, and costs; but in case the highest bid therefor is not sufficient to meet the amount of tax, penalty, and costs thereon, said property thereupon shall be bid off by the said collector of taxes, in the name of and by the District of Columbia, and the Commissioners of the District of Columbia may sell the same at private sale to satisfy the tax, penalty, and costs thereafter without further notice.

Senator MARTIN. I think that bad law right straight through—from beginning to end. In the first place, it should not be compulsory to store the property.

Mr. DARNEILLE. Let me explain, and you will think so. We have river boats here and railway cars on their tracks which, under the present law, would have to be carried to the collector's office, and it would be impossible to do so. The collector seizes a boat, and he says

to the harbor master, "Tie that boat up to your wharf subject to my orders." And so with the freight car on the track. From the view point of the Commissioners and the attorney for the District the suggested provision should be made.

Senator MARTIN. It says, "stored in a safe place." That means that everything levied on should be carried to the storage house.

Senator FORAKER. What is the rule if you get a car or boat?

Senator MARTIN. If it be a horse or piano, that could be done. They should say what it is to be.

Mr. DARNEILLE. Anything that the collector of taxes can take to his office he does. This says, "shall be stored in a safe and convenient place."

Senator MARTIN. Shall be taken to a safe and convenient place.

Senator HANSBROUGH. Stored or secured?

Senator MARTIN. It is in the custody of the law anyhow. The collector of taxes has the right to do that anyhow. He is the legal custodian. If he has the right to store it he may do so.

Mr. DARNEILLE. Not necessarily so.

Senator MARTIN. There must be some law here on the subject. In the States the sheriff or sergeant is the custodian, and he is responsible for the safe-keeping of the property.

The CHAIRMAN. Under the personal-tax law the property is required to be taken to the collector's office. But that is an impossibility in some cases. The suggestion of the Senator from Ohio (Mr. Foraker) is that provision should be made for the property to be taken to a safe and convenient place.

Mr. DARNEILLE. In the present law as found on page 13, paragraph 12 of section 6, there is this provision:

Said collector shall report in detail in writing every distraint and sale of personal property to the Commissioners of the District of Columbia or their successors in office, and his accounts in every respect to every such distraint or sale shall forthwith be submitted to the auditor of the District of Columbia and be audited by him.

Senator SIMMONS. And the only change that this makes is to relieve the assessor of the necessity of carrying to his office the things which he can not carry there.

Mr. DARNEILLE. And on page 12 it says:

And in the case of distraint of personal property or the levy upon real estate as aforesaid, the collector of taxes shall immediately proceed to advertise the same by public notice to be posted in the office of said collector and by advertisement three times within one week in one or more of the daily newspapers published in said District, stating the time when and the place where such property shall be sold, the last publication to be at least six days before the date of sale, and if the said taxes and the penalty thereon, and the cost and expenses which shall have accrued thereon, shall not be paid before the day fixed for such sale, which shall not be less than ten days after said levy or taking of said property, the collector shall proceed to sell at public auction in his office.

The CHAIRMAN. Substitute the word "keep" for the word "stored."

Senator MARTIN. I still do not like that. But there is not much of it.

Mr. DARNEILLE. No; it is not more than a couple of days that we should have to store property. We can say to the harbor master, Seize that boat and carry it up to your wharf.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Senator MARTIN. Bidding the property in by the District of Columbia—is that a wise thing?

Senator SIMMONS. We do that in the States.

Senator MARTIN. With regard to personal property?

Mr. DARNEILLE. It does not amount to much, except in isolated cases. Suppose there are not enough people present to bid the amount of the tax. We say we will bid it in the name of the District of Columbia.

Senator MARTIN. Suppose the taxes are \$50 and there is not enough property to cover that amount?

Mr. DARNEILLE. Then we sell the real estate of the party to satisfy the tax.

Senator FORAKER. You can sell the property. Suppose you say, "In so far as the proceeds are sufficient therefor."

Senator SCOTT. Give the District title to it.

Mr. DARNEILLE. Yes.

Senator MARTIN. I never knew that to be done in my life. Never knew personal property to be bid in in the name of the city.

Mr. DARNEILLE. We can hold it.

Senator FORAKER. I am satisfied with it just as it is, because I imagine that it is something we will not have to resort to.

Mr. DARNEILLE. Senator Simmons has another amendment.

Senator SIMMONS. Yes. Here is another amendment suggested by the Commissioners, to add to section 6 the following:

That it shall be unlawful for the licensee, owner, proprietor, or any employee of a licensee, owner, or proprietor of any barroom, or any other establishment in which intoxicating liquors of any kind are sold, to sell, give, or dispense in any manner intoxicating liquors of any kind to any person under the age of twenty-one years.

Senator MALLORY. Is not that the law now?

Mr. DARNEILLE. No; it says, "knowingly."

Senator SIMMONS (reading):

Any person violating the provisions of this paragraph shall be amenable to a fine of twenty-five dollars, or imprisonment for thirty days, or both, in the discretion of the court, and in addition to such penalty the license for the place in which such intoxicating liquors were sold to a minor shall be revoked.

Mr. DARNEILLE. At present the law is that any person who knowingly does that. The law has been evaded. It is difficult to prove that the party selling knew that the purchaser was a minor, and the courts have held that there must be strict proof of that. Young girls are taken into barrooms and cafés, gotten intoxicated, and taken off and debauched, but the perpetrators can not be held, because it can not be proved that the sellers knew they were minors.

Senator FORAKER. What is that amendment?

Senator SIMMONS. It is an amendment to section 6.

Senator FORAKER. Read it again.

Senator SIMMONS (reading):

That it shall be unlawful for the licensee, owner, proprietor, or any employee of a licensee, owner, or proprietor of any barroom, or any other establishment in which intoxicating liquors of any kind are sold, to sell, give, or dispense in any manner intoxicating liquors of any kind to any person under the age of twenty-one years.

Senator HANSBROUGH. That is the law now?

Mr. DARNEILLE. Yes. But the present law is that the parties must do so knowingly.

The CHAIRMAN. That is in regard to the excise law, not in regard to taxation?

Mr. DARNEILLE. The license law comes in after the personal-tax law. After the taxation of personal property comes in the license tax.

Senator SCOTT. The man is to be 21 years old before he may purchase?

The CHAIRMAN. The laws of the States provide that minors shall not buy intoxicating liquors?

Senator GAMBLE. It is that way in nearly all the States.

The amendment was agreed to.

The CHAIRMAN. Is there anything further?

Mr. DARNEILLE. Yes. That will make the repealing clause of this bill section 7.

The CHAIRMAN. The chair suggests that this bill be printed with the amendments as they have been adopted this morning, and that it be submitted to the committee for final action at its meeting on Friday next.

Senator HANSBROUGH. There is one amendment that is yet open, the one with regard to common carriers.

Senator SIMMONS. That was passed over for further consideration.

Senator FORAKER. I so understood it.

Senator SIMMONS. The amendment was to add this proviso to the paragraph on the subject of common carriers:

That this shall not apply to vessels, ships, or boats if it be made to appear by affidavit that any vessel, ship, or boat has been assessed for taxation and the taxes paid elsewhere.

Senator MALLORY. Yes; that is right.

Senator FORAKER. We ought to frame some kind of provision that would be applicable to all outside companies that undertake to do business in the District, and then it would not be necessary to provide about boats.

Mr. DARNEILLE. The amendments to the Code provide for that.

Senator MARTIN. You say that is taken care of in the Code?

Mr. DARNEILLE. I think it is.

Senator FORAKER. Then it is not necessary to do anything with it here.

The CHAIRMAN. The question is on the amendment of the Senator from North Carolina [Mr. Simmons].

The amendment was agreed to.

Senator FORAKER. Is that the one which was just submitted?

The CHAIRMAN. It would include the amendment, with a qualifying clause.

Senator SCOTT. I understand that that is to be taken care of in the Code.

Mr. DARNEILLE. Yes; in the amendments now pending.

Senator FORAKER. Then we had a blanket provision that it should apply to all outside companies.

Senator MARTIN. It might not be a corporation but an individual carrier.

Senator FORAKER. Yes.

Senator SIMMONS. Here is the provision: "After the passage of this act it shall be unlawful for any person or persons entering the District of Columbia subsequent to June thirtieth of each year," and where a person brings a vessel into the District and engages in business after that period he shall be like other persons coming in after that time.

Senator FORAKER. I suggest that the bill be printed with the amendments as you now have them, and if when we again come to consider the bill anybody should desire to move a reconsideration of the vote by which the amendment was adopted he may do so.

Thereupon (at 12 o'clock m.) the committee adjourned until Friday, March 4, 1904, at 10.30 o'clock a. m.

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HEARING

BEFORE THE

33

SUBCOMMITTEE

OF THE

COMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

UNITED STATES SENATE

ON

H. R. 6289, ENTITLED "AN ACT TO PROVIDE FOR THE ABATEMENT
OF NUISANCES IN THE DISTRICT OF COLUMBIA BY THE COM-
MISSIONERS OF SAID DISTRICT, AND FOR OTHER PUR-
POSES," AND ON H. R. 9293, ENTITLED "AN ACT
TO CREATE A BOARD FOR THE CONDEM-
NATION OF INSANITARY BUILDINGS
IN THE DISTRICT OF COLUM-
BIA, AND FOR OTHER
PURPOSES."

APRIL 14, 1904.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1904.



ABATEMENT OF NUISANCES AND CONDEMNATION OF INSANITARY BUILDINGS IN THE DISTRICT OF COLUMBIA.

SUBCOMMITTEE OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA,
UNITED STATES SENATE,
Thursday, April 14, 1904.

The subcommittee met at 2 o'clock p. m.

Present: Senators Stewart (chairman) and Mallory.

Present, in addition to the members of the committee: Mr. S. W. Woodward and Mr. John Joy Edson, of the committee on legislation of the Associated Charities' committee on the improvement of housing conditions; Gen. G. M. Sternberg, representing the public health committee of board of trade; Dr. G. M. Kober, representing the District of Columbia Medical Society; Mr. Snowden Ashford, inspector of buildings; Dr. W. C. Woodward, health officer; Mr. C. F. Weller; Dr. Z. T. Sowers; Mr. H. C. McLean, deputy health officer; and Messrs. B. F. Leighton, Cotter T. Bride, John G. Slater, Henry E. Davis, Dr. T. Y. Hull, H. J. Schulteis, Wallace Hatch, Hon. J. W. Foster, and Mr. A. F. Kinnan, president of Brookland Citizens' Association.

The CHAIRMAN. This is a hearing, as I understand it, on this "nuisance bill." We have a bill that passed the House, and the Senate committee prepared a substitute. I suppose you are all familiar with it. We would like to hear any gentlemen here on the substitute—as to what objections any of the gentlemen present have to it.

The bills referred to are as follows:

[H. R. 6289, Fifty-eighth Congress, second session.]

AN ACT to provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the inspector of buildings of the District of Columbia to examine into the sanitary condition and safety of all buildings in said District, and for that purpose shall have authority to enter the same whenever he shall be of opinion that such examination is necessary; and it shall be the duty of the Commissioners of the District of Columbia to provide such assistants for the inspector of buildings as may be necessary to perform the duties herein required. Said inspector of buildings shall from time to time report such investigations to the corporation counsel for said district, and upon receipt of such reports it shall be the duty of the said corporation counsel to cause notices to be served upon the persons complained of for violating the provisions of the acts of Congress or the regulations of the Commissioners of the District of Columbia, made in pursuance thereof as hereinafter provided; and if the alleged evils are not remedied within ten days after such notice, said corporation counsel shall proceed against said persons in the police court as in other cases of misdemeanors. It shall also be the duty of the said corporation counsel, where the owners of property occupied as habitations allow their buildings to be or to remain in a condition prohibited by law or the regulations of

the said Commissioners passed in pursuance thereof, to file a petition in equity against said persons in the supreme court of the District of Columbia in addition to the criminal proceedings hereinbefore provided for. Said supreme court, in term time or vacation, may, on the filing of such petition, by suitable process or decree in equity, enforce the provisions of this act and all regulations passed by said Commissioners, and said supreme court may, on application of the said corporation counsel, in its discretion, issue a preliminary injunction to restrain the use or occupation of any building or structure in the said District existing, erected, altered, or used in violation of law or the regulations of the said Commissioners made in pursuance of this act, and may on final hearing make such injunction perpetual.

Sec. 2. That every building in the District of Columbia used as a dwelling house or lodging house shall at all times have such drainage, water-closets, windows, and ventilation as the Commissioners of the District of Columbia shall by regulation require. And the said Commissioners are hereby empowered and directed to prohibit by regulation the occupation of any building or room in the District of Columbia which is not in a safe and sanitary condition and suitable for habitation. Said Commissioners shall from time to time, by regulations duly published, prescribe the conditions necessary for a room or dwelling to render it fit for habitation.

Sec. 3. That no room in any dwelling house shall be so overcrowded that there shall be afforded less than four hundred cubic feet of air to each adult and two hundred cubic feet of air to each child under twelve years of age occupying such room, and no dwelling house shall be so overcrowded that there shall be afforded in the living rooms and bedrooms of said house less than six hundred cubic feet of air to each individual occupying the same.

Sec. 4. That the Commissioners of the District of Columbia shall prescribe by regulation such notices as shall be given by the inspector of buildings to the owners or occupants of buildings unfit for habitation under the provisions of this act or the regulations of the said Commissioners made in pursuance thereof, as may be proper and reasonable. That for the purposes of this act any notice required by law or by any regulation aforesaid to be served shall be deemed to have been served (a) if delivered to the person to be notified, or if left with any adult person at the usual residence or place of business of the person to be notified, in the District of Columbia; or (b) if no such residence or place of business can be found in said District by reasonable search, if left with any adult person at the office of any agent of the person to be notified, which agent has any authority or duty with reference to the land or tenement to which said notice relates; or (c) if no such office can be found in said District by reasonable search, if forwarded by registered mail to the last known address of the person to be notified and not returned by the post-office authorities; or (d) if no address be known or can by reasonable diligence be ascertained, or if any notice forwarded as authorized by the preceding clause of this section be returned by the post-office authorities, if published on ten consecutive days in a daily newspaper published in the District of Columbia; or (e) if by reason of an outstanding unrecorded transfer of title the name of the owner in fact can not be ascertained beyond a reasonable doubt, if served on the owner of record in the manner hereinbefore in this section provided. Any notice required by law or by any regulation aforesaid to be served on a corporation shall, for the purposes of this act, be deemed to have been served on any such corporation if served on the president, secretary, treasurer, general manager, or any principal officer of such corporation in the manner hereinbefore provided for the service of notices on natural persons holding property in their own right; and, if required to be served on any foreign corporation, if served on any agent of such corporation personally, or if left with any adult person at the usual residence or place of business of such agent in the District of Columbia. Every notice aforesaid shall be in writing or printing, or partly in writing and partly in printing; shall be addressed by name to the person to be notified; shall describe with certainty the character and location of the unlawful condition to be corrected, and shall allow a reasonable time to be specified in said notice within which the person notified may correct such unlawful condition or show cause why he should not be required to do so. That the notices provided for in this section shall be sufficient to give the court jurisdiction, whether the proceedings shall be instituted in the police court or in the supreme court of the District of Columbia, as in this act provided.

Sec. 5. That any person violating or aiding or abetting in violating any of the provisions of this act or the regulations of the Commissioners of the District of Columbia made under its authority shall, upon conviction in the police court of the District of Columbia, upon information filed in the name of said District, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ninety days; and each day on which such unlawful act is done or during which such unlawful negligence continues shall constitute a separate and distinct offense.

SEC. 6. That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

Amend the title so as to read: "A bill to prevent the occupation of insanitary dwellings in the District of Columbia, and for other purposes."

[H. R. 9293, Fifty-eighth Congress, second session.]

AN ACT to create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and is hereby, created in and for the District of Columbia a board to be known as the board for the condemnation of insanitary or unsafe buildings in the District of Columbia, to consist of the assistant to the Engineer Commissioner in charge of buildings, the health officer, and the inspector of buildings of said District; and to have jurisdiction and authority to examine into the sanitary or safe condition of all buildings in said District, to condemn those buildings which are in such insanitary or unsafe condition as to endanger the health or lives of the occupants thereof or of persons living in the vicinity, and to cause all buildings to be put into sanitary or safe condition or to be vacated, demolished, and removed, as may be required by the provisions of this act. Said board may authorize and direct the performance of any of the ministerial duties of said board by officers, agents, employees, contractors, and employees of contractors duly detailed or employed by the Commissioners of said District for that purpose. Said board, the members thereof, and all persons acting under its authority and by its direction, may, between the hours of eight o'clock antemeridian and five o'clock postmeridian, enter into and upon any and all lands and buildings in said District for the purpose of inspecting the same, and for the purpose of causing any such buildings to be vacated, demolished, and removed, as may be required by the provisions of this act. Said board shall report its operations to the Commissioners of the District of Columbia from time to time as said Commissioners direct. Said Commissioners shall furnish said board such assistance as may be required for the proper conduct of its work, by details from various departments and offices of the government of said District.

SEC. 2. That a majority of the board for the condemnation of insanitary or unsafe buildings shall constitute a quorum, and a majority vote of the members present shall be necessary to condemn any building under this act. Whenever for any reason the health officer is unable to act as a member of said board the deputy health officer shall act as a member thereof in place of said health officer, and whenever for any reason the inspector of buildings is unable to act as a member of said board the principal assistant inspector of buildings shall act as a member thereof in place of said inspector of buildings; but no person shall act as a member of said board who has any property interests, direct or indirect, in his own right or through relatives or kin, in the building the sanitary condition of which is under consideration. The deputy health officer and the principal assistant inspector of buildings, when acting as members of the board for the condemnation of insanitary or unsafe buildings in the District of Columbia, shall have all authority and duties which are vested by this act in the health officer and the inspector of buildings, respectively, when acting in the same manner.

SEC. 3. That said board for the condemnation of insanitary or unsafe buildings be, and is hereby, authorized to investigate, through personal inquiry and inspection by the members thereof, and through inquiry and inspection by officers, agents, and employees appointed or detailed for that purpose, into the sanitary or safe condition of any building or part of a building in said District, except such as are under the exclusive jurisdiction of the United States. If any building or part of a building be found, as the result of such investigation, to be in such insanitary or unsafe condition as to endanger the health or the lives of the occupants thereof or of persons living in the vicinity, said board shall cause a notice to be served on each owner or part owner of such building requiring him to show cause within not less than twenty days, exclusive of Sundays and legal holidays, from the date of the service of said notice why such building or part of building should not be condemned. And if within the time specified in said notice no cause be shown sufficient in the opinion of a majority of said board to prevent the condemnation of such building or part of building said board shall issue an order condemning such building or part of building, and shall cause a copy of such order to be served on each owner or part owner thereof, and a copy or copies to be affixed to the building or part of building condemned.

SEC. 4. That from and after ten and not exceeding thirty days, in the discretion of the Commissioners, exclusive of Sundays and legal holidays, after a copy or copies

of any order of condemnation has been affixed to any condemned building or part of building no person shall occupy such building or part of building.

SEC. 5. That no person having authority to prevent shall permit any building or part of building condemned to be occupied, except as specially authorized by the board for the condemnation of insanitary or unsafe buildings in the District of Columbia, under authority of section six of this act, after thirty days, exclusive of Sundays and legal holidays, from and after the date of the service of a copy of the order of condemnation on the owner of such building; or, if there be several part owners of such building, from the latest date of service on any part owner; or, if a copy or copies of such order of condemnation has been affixed to the condemned building or part of building at a date subsequent to the date of service of the notice on any owner or the latest date of service on any part owner, after thirty days from the date on which said copy or copies of such order of condemnation was so affixed.

SEC. 6. That if the owner or owners of any building or part of building condemned under the provisions of this act shall make such changes or repairs as will remedy in a manner satisfactory to said board the conditions which led to the condemnation of such building or part of building, said board shall cancel its order of condemnation and the building may be again occupied; and if such owner or owners can not make such changes or repairs within the period within which they may lawfully permit such building or part of building to be occupied under section five of this act, but proceed with such changes or repairs with reasonable diligence during that period, said board may, by special order, extend from time to time the period within which the occupants of said building or part of building may remain therein and within which the owner or owners thereof may permit them so to do.

SEC. 7. That the owner or owners of any building or buildings condemned under the provisions of this act, which can't be so changed or repaired as to remedy the condition which led to the condemnation thereof, shall demolish and remove such building or part of building within a time to be specified by said board in the order of condemnation. And if any owner or part owner shall fail or refuse to demolish and remove said building or part of building within the time so specified, he shall be deemed guilty of a misdemeanor and liable to the penalties provided by section thirteen of this act, and such building or part of building shall be demolished and removed under the direction of the board for the condemnation of insanitary or unsafe buildings in the District of Columbia, and the cost of such demolition and removal, less the amount, if any, received from the sale of the old material, but including the cost of making good such damage to adjoining premises as may have resulted from carelessness or willful recklessness in the demolition of such building and the cost of publication, if any, herein provided for, shall be assessed by the Commissioners of the District of Columbia as a tax against the premises on which such building or part of building was situated, such tax to be collected in the same manner as general taxes are collected, and when collected shall be deposited in the Treasury to the credit of the United States and the District of Columbia in equal parts.

SEC. 8. That whenever the title to any building or part of a building the condemnation of which is contemplated is in litigation, said board for the condemnation of insanitary or unsafe buildings shall notify all parties to the suit and shall report the circumstances to the corporation counsel of the District of Columbia, who shall bring such circumstances to the attention of the court in which such litigation is pending for the purpose of securing such order or decree as will enable said board to continue such proceedings looking toward condemnation, and such court is hereby authorized to make such decrees and orders in such pending suit as may be necessary for that purpose.

SEC. 9. That whenever the title to any building or part of building is vested in a person non compos mentis, or a minor child or minor children without legal guardian, said board for the condemnation of insanitary or unsafe buildings shall report that fact to the corporation counsel of the District of Columbia, who shall take due legal steps to secure the appointment of a guardian or guardians for such person non compos mentis or minor child or children aforesaid, for the purpose of the condemnation proceedings authorized by this act. And any justice of the supreme court of the District of Columbia holding the equity court is hereby authorized to appoint a guardian or guardians for that purpose.

SEC. 10. That any notice required by this act to be served shall be deemed to have been served if delivered to the person to be notified, or if left at the usual residence or place of business of the person to be notified, with a person of suitable age and discretion then resident therein; or if no such residence or place of business can be found in the District of Columbia by reasonable search if left with any person of suitable age and discretion employed therein at the office of any agent of the person to be notified, which agent has any authority or duty with reference to the land or

tenement to which said notice relates; or if no such office can be found in said District by reasonable search if forwarded by registered mail to the last-known address of the person to be notified and not returned by the post-office authorities; or if no address be known or can by reasonable diligence be ascertained, or if any notice forwarded as authorized by the preceding clause of this section be returned by the post-office authorities, if published for ten consecutive days in a daily newspaper published in the District of Columbia; or if by reason of an outstanding unrecorded transfer of title the name of the owner in fact can not be ascertained beyond a reasonable doubt, if served on the owner of record in the manner hereinbefore in this section provided. Any notice to a corporation shall, for the purposes of this act, be deemed to have been served on such corporation if served on the president, secretary, treasurer, general manager, or any principal officer of such corporation in the manner hereinbefore provided for the service of notices on natural persons holding property in their own right; and notice to a foreign corporation shall, for the purposes of this act, be deemed to have been served if served on any agent of such corporation personally, or if left with any person of suitable age and discretion residing at the usual residence or employed at the usual place of business of such agent in the District of Columbia.

SEC. 11. That no person shall interfere with any member of the board for the condemnation of insanitary or unsafe buildings or with any person acting under authority and by direction of said board in the discharge of his lawful duties, nor hinder, prevent, or refuse to permit any lawful inspection or the performance of any work authorized by this act to be done by or by authority and direction of said board.

SEC. 12. That no person shall, without the consent of said board for the condemnation of insanitary or unsafe buildings, deface, obliterate, remove, or conceal any copy of any order of condemnation which has been affixed to any building or part of building by order of said board; and the owner and the person having custody of any building or part of building to which a copy or copies of any such order has been affixed shall, if said copy of said order has been to his knowledge defaced, obliterated, or removed, forthwith report that fact in writing to said board, unless he has good reason to believe that such copy of such an order has been removed by authority of said board, and if such copy of such order has been concealed shall forthwith expose the same to view.

SEC. 13. That any person violating or aiding or abetting in violating any of the provisions of this act shall, upon conviction thereof in the police court of the District of Columbia, upon information filed in the name of said District, be punished by a fine of not more than one hundred dollars or by imprisonment for not more than ninety days; and each day on which such unlawful act is done or during which such unlawful negligence continues shall constitute a separate and distinct offense.

SEC. 14. That the owner or owners of any building or part of building condemned under the provisions of this act may, within the time specified in the order of condemnation, institute proceedings in the supreme court of the District of Columbia, sitting as a district court, for the modification or vacation of the order of condemnation aforesaid, and the court shall give precedence to any such case and shall hear the testimony adduced therein; and unless the court shall find that there is sufficient proof made of the necessity of the destruction of such building or part of building, the order of the board for the condemnation of insanitary or unsafe buildings shall be modified or set aside, as said court shall direct; otherwise the court shall issue such orders and decrees as may be necessary to carry the order of said board, as made by the board or as modified by the court, into effect; and the court may appoint a committee of award, consisting of three persons, each of whom shall have the qualifications of jurors in the District of Columbia, who, after taking the oath required of jurors in the trial of civil causes, shall proceed to hear and receive evidence respecting the amount of damages to be awarded to the owner or owners of such condemned building or part of building aforesaid, and said committee may issue subpoenas requiring the attendance of witnesses before them and may administer oaths to such witnesses. Witnesses may be compelled to appear and testify before said committee in the same manner as witnesses may be compelled to appear and testify in the supreme court of the District of Columbia; and, if need be, said committee shall be entitled, upon application, to the aid of said court to compel such attendance and giving of testimony. Unless the court shall order otherwise, the hearing of evidence before said committee need not be in the presence of the court, but they may meet in any room assigned to them by the United States marshal for the District of Columbia, who shall, in person or by deputy, attend such hearings. In such proceedings evidence shall be received by the committee of award appointed as aforesaid to prove—

First. That the rental of the building was enhanced by reason of the same being used for illegal purposes, or being so overcrowded as to be dangerous or injurious to the health of the inmates; or

Second. That the building is in a state of defective sanitation, or is not in reasonably good repair; or

Third. That the building is unfit and not reasonably capable of being made fit for human habitation; and if the committee, or a majority of the members thereof, is satisfied by such evidence that compensation should be awarded, then the compensation—

(a) Shall in the first case, so far as it is based on rental, be on the rental of the building (as distinct from the ground rent), which would have been obtainable if the building was occupied for legal purposes, and only by the number of persons whom the building was, under all the circumstances of the case, fitted to accommodate without such overcrowding as is dangerous or injurious to the health of the inmates; and

(b) Shall in the second case be the amount estimated as the value of the building if it had been put into a sanitary or safe condition, or into reasonably good repair, after deducting the estimated expense of putting it into such condition or repair; and

(c) Shall in the third case be the value of the materials of the building.

That after hearing and considering the testimony offered by the owner and offered on behalf of the District of Columbia, the said committee of award shall report to the court in writing the compensation allowed by them to the owner according to the provisions of this section. Unless cause be shown to the court within ten days from the filing of said report why the same should not be confirmed, the court shall confirm the same and judgment be entered thereon accordingly; but from the damages awarded in any case the cost of removing the building, including the cost of making good such damage to adjoining premises as may have resulted from carelessness or willful recklessness in such removal, and the cost of publication, if any, authorized by section ten of this act, shall be deducted unless the owner shall, at his own expense, remove the same within such time as may be fixed by the court in the order confirming the report of the said committee as hereinbefore provided.

That each member of the committee of award appointed by the court as aforesaid shall receive for each day's attendance the sum of five dollars, and any vacancy caused by death, sickness, or disqualification may be filled by appointment by the court.

SEC. 15. That except as herein otherwise authorized all expenses incident to the enforcement of this act shall be paid from appropriations made from time to time for that purpose.

SEC. 16. That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

STATEMENT OF MR. S. W. WOODWARD.

MR. WOODWARD. Mr. Chairman, Mr. Edson and I represent the committee on the improvement of housing conditions of our Associated Charity organization. We are in favor of some legislation on this subject, and we would like to make a statement as to in what features this bill meets our wishes and to suggest some changes.

The CHAIRMAN. I was speaking of the substitute. The other has a machinery that it seems to me would be rather difficult to execute: what is everybody's business is generally nobody's business.

Senator MALLORY. There are four bills on this subject.

The CHAIRMAN. Is there any particular bill that you want?

Mr. WOODWARD. Yes, sir.

Senator MALLORY. I was going to suggest that it is very possible that these gentlemen may wish to make suggestions contained in one bill as applicable to another bill.

Mr. WOODWARD. Yes, sir. Our committee desires to record itself as especially pleased with those provisions of H. R. 6289 which specify that the minimum amount of air space in any dwelling house shall be 400 cubic feet of air for each adult, and 200 cubic feet for each child under 12, and at least 600 cubic feet of air space shall be the minimum for each individual occupying a living or sleeping room in any dwelling. The committee is also especially pleased with the fact

that the District Commissioners are instructed to prescribe, from time to time, such drainage, water-closets, windows, and ventilation as they consider to be necessary for a sanitary dwelling. The committee recommends that these provisions be inserted, if possible, in bill H. R. 9293, and that the latter be adopted as thus modified.

The CHAIRMAN. Is this the one (H. R. 9293)—the one that passed the House?

Mr. WOODWARD. Yes, sir.

The CHAIRMAN. Are you very much attached to this system of this board condemning?

Mr. WOODWARD. I beg your pardon?

The CHAIRMAN. This provides for a board to make condemnations of insanitary buildings.

Mr. WOODWARD. Yes, sir. I am ready to detail two or three points.

The CHAIRMAN. Very well; go on.

Mr. WOODWARD. The committee believe that H. R. 6289 is inadequate in the following particulars:

First. That it makes no specific provision for the removal of insanitary dwellings, but only provides that they may be vacated. It has been found by experience that vacant property of this description often endangers the neighborhood through bringing about the collection of filth, or by harboring unlawful characters, or by giving rise to fires.

Second. That the execution or initiation of any action rests entirely with the inspector of buildings, instead of with a special board comprising the inspector of buildings, the health officer, and the first assistant to the engineer Commissioner, as provided in H. R. 9293. The committee feels that the judgment of the health officer is indispensable to any action concerning insanitary dwellings, and the committee is informed that the present inspector of buildings objects to bearing alone the increased work and responsibility which is entailed by the proposed bill, H. R. 6289.

Third. That it requires an appeal to the police court through the corporation counsel, or an appeal to the supreme court through the corporation counsel, to put into action any of the provisions or regulations against insanitary dwellings, instead of authorizing the condemning power to put its condemnations into effect, subject to appeal from this decision by the owner of the property in question. Bill H. R. 9293 provides that the special board for the condemnation of insanitary dwellings may carry out the provisions of the law to the extent of vacating insanitary property or ordering its demolition by orderly process prescribed in the bill, time being specifically allowed for the owner to appeal to the courts, if he desires to do so, either for a reversal of the condemnation or for some compensation for the property condemned.

Fourth. That it omits a number of important specifications which are given in bill H. R. 9293 and which experience has proven to be necessary for the orderly and effective carrying out of the process proposed. Among the important provisions omitted are the following: (a) H. R. 9293 details the process by which an owner may appeal to the courts for compensation for condemned property, and specifies how and upon what conditions such compensation may be awarded. These provisions are modeled after the effective New York City code. (b) H. R. 9293 prescribes specific methods of dealing with property which is in litigation or is owned by insane persons or minors, and experi-

ence has proven that specific legislation on these topics is essential to an effective bill for the condemnation of insanitary dwellings. (c) H. R. 9293 provides a slower and more conservative and more equitable process of condemning property. It also specifically allows for such alterations or repairs in any condemned house as shall make it satisfactory to the condemning board, and it stipulates that the vacation or removal of condemned property shall be a last resort. All mention of these details is omitted from bill H. R. 6289.

The considerations briefly outlined above lead this volunteer "committee on the improvement of housing conditions" to respectfully urge your honorable body to incorporate in bill H. R. 9293 the valuable additional provisions of H. R. 6289 mentioned above, and thus make the House bill 9293 the basis for this much-needed legislation.

The committee deems it unnecessary to call to your attention the fact that legislation for the condemnation of unsanitary dwellings has been repeatedly and earnestly urged for the past five or six years by disinterested citizens, and that it is very desirable to avoid further delay by uniting upon a bill (H. R. 9293) which has been carefully prepared under the direction of the District Commissioners, which has been modeled upon the successful experience of other cities, which has been planned to meet all the objections raised in the Senate committee last year, which has already been approved by both the Senate and House committees on District affairs, and which has already been passed by the House of Representatives.

The CHAIRMAN. You think, then, it is essential to have a board and to have the health officer have charge of that board?

Mr. WOODWARD. We do.

The CHAIRMAN. Has not the health officer more than he can do already?

Mr. WOODWARD. I do not think so.

The CHAIRMAN. There are a great many things he has under his jurisdiction which he has not time to attend to.

Mr. WOODWARD. The inspector of buildings, Mr. Chairman, also has more than that office can attend to.

The CHAIRMAN. You can give him all the help you want to.

Mr. WOODWARD. We have tried very hard to get it for several years. There is hardly an inspector force in that office sufficient to carry forward the proper examination of new buildings.

The CHAIRMAN. Then we will give them more force.

Mr. WOODWARD. We thank you; we need it very much.

The CHAIRMAN. But you want a single head for every department. Is not this board going to be cumbersome?

Mr. WOODWARD. We think not. We are not authorized to speak for the inspector of buildings. He is here and will answer any questions himself.

The CHAIRMAN. There are also constitutional questions; whether you can condemn a man's property and perhaps make it pay for other improvements, and so forth, to make it a lien upon his property. It may be constitutional to do that, but practically that never would be done. You never could get it accurate enough so you could make the lien stick. I have seen a great many attempts of that kind; I have never seen it accurate enough to enforce it if it was resisted. There are a great many constitutional questions arising. What objection is

there to the court doing it; it can give a preliminary injunction and hear the parties I should think?

Mr. WOODWARD. We think the suggestions we make tend toward a quick action.

The CHAIRMAN. You can have an action in one day, in one hour, by the court. You would have to have this board get together and take proceedings that will take you a long time, but if there is a nuisance that is injurious to health the corporation attorney can take action and proceed that day and get a preliminary injunction and have a hearing, and then there will not be any constitutional question in it. The committee after passing over this a great deal found difficulties in a board of condemnation. Do you propose having the improvements made a lien on the property?

Mr. WOODWARD. Yes, sir.

Senator MALLORY. I would like to ask Mr. Woodward—I do not know whether you are a lawyer or not?

Mr. WOODWARD. No, sir; I am a merchant.

Senator MALLORY. Do you know whether or not any consideration has been given to the question of whether it is in compliance with the requirements of the Constitution covering the right of the individual to hold his property until he is deprived of it by due process of law, that an appeal is given? Under this House bill 9293, provision is made for the condemnation by this little board, these little officials—little administrative officers. They may go there and see a man's property, and they may say it is bad and they may condemn it, and, if nothing else is done, it is pulled down, and the owner is prohibited from occupying it; but privilege is given to appeal, within a certain time, to the District courts. Now, do you think, or does your committee think that that is a sufficient compliance with that Constitutional requirement that no man shall be deprived of life, liberty, or property without due process of law?

Mr. WOODWARD. We do, Senator.

Senator MALLORY. You will remember under this provision you can destroy his property before it has been adjudicated by any judicial proceedings, unless he steps in and appeals to the court. There is latent in my mind a very strong prejudice against any such proceeding as that. I see the evil here, the injury to the city arising from the existence of these insanitary buildings, and I would like very much to get some measure that would check it; but I do not want to do anything that your court is going to knock in the head on the first case that comes up.

Mr. WOODWARD. And naturally we do not want to do anything that the court is going to knock in the head.

Senator MALLORY. And to my mind there is a very grave question there. The Supreme Court has decided a question somewhat analogous to this, although I can not put my hand on it now. I think in one case it did hold that an appeal, where it is clearly given, from the action of an executive officer is a sufficient compliance with that provision of the Constitution; but whether it would cover a case of this kind or not I do not know, and I would like very much, before I commit myself in favor of this, to hear some argument from a lawyer on the subject.

Doctor KOBER. The Hon. John W. Foster is here. He may be able to say about it.

Senator MALLORY. I would be very glad to hear any suggestions on that point. I took it for granted that this very estimable body of gentlemen who come here to point out defects in this bill had considered also some of the legal aspects of it, and that is the reason why I have made the remarks I have made.

Mr. WOODWARD. I would like to say before I sit down that we have quite a large number of insanitary buildings in our city, and unfortunately many of them are owned by persons who are non-residents here. They are a great menace to the health of all our citizens.

Senator MALLORY. My attention has been called to the fact that in certain cities like New York or Chicago, and some other cities, things that are permitted in this bill are authorized, are considered good law in those cities. I have not had an opportunity to investigate as to whether the constitutions in the States in which those cities are located permit that. I know this: That Congress can not do anything in the District of Columbia that is not authorized by the Constitution of the United States. Although we have exclusive control of the District of Columbia, we have to control it according to the provisions of the Constitution; and for that reason I think we ought to be governed not by what is the case in other States, but by what we can be sure is in conformity with our constitutional rights here in the District of Columbia.

Mr. FOSTER. Does not the Constitution of the United States reach to Illinois?

Mr. DAVIS. Not in domestic matters, certainly.

Senator MALLORY. No doubt; but the constitution of the State of New York can say that a municipal government has a right to do these things. But we can not do that here, because we have to look to the Constitution of the United States.

Mr. WOODWARD. The New York law, from which we have copied our suggestions, has been upheld in every particular.

Senator MALLORY. That may be; but what I say is that that is not conclusive of the right, because there may be some power given by the constitution of the State of New York to permit that. We can do what the Constitution authorizes. The Supreme Court has held in a number of instances that the District of Columbia must be run in accordance with the Constitution of the United States, and you can not swerve one iota from the limits prescribed by that Constitution.

The CHAIRMAN. The States have all the power that is not prohibited to them; they have larger powers than exist in the District of Columbia: they have all the powers that are not prohibited. All you have to do is to examine the Constitution and see if a power is prohibited. Otherwise they have unlimited power; but on the other hand, we here in the District of Columbia only have the powers conferred by the Constitution.

Senator MALLORY. I think this bill, 9293, is the best. I have read them all, and if it will stand the criticism of the courts, I am inclined to think probably it is the best, but still that is only a side issue.

The CHAIRMAN. I have some criticism on the proposition to create a board. I do not believe you want this kind of a board. It will be in the way, and the persons who are charged with this duty already have more than they can do. If you can have a single individual to

do this it is a great deal better, in my opinion, than to have it done by a board. And if it is an administrative thing to be done, something to be done through the administration of a single individual, then certainly it is better to have a single individual to attend to it rather than a board. Now, you have on this board the engineer Commissioner, in charge of buildings. He is one of the Commissioners of the District of Columbia. You have the health officer, and, also, you have the inspector of buildings of the District. This makes up the board. Now, we do not need all those. What is the objection, if there is a nuisance, to going direct to the court and getting an order that very morning? This substitute provides that they can get a preliminary injunction and then you will serve notice on them and let them come in and then a proper order can be made, and it can either be turned down or granted. There will be no constitutional question about it then.

Mr. DAVIS. Senator Stewart, a temporary injunction judges a man guilty before he has been heard, and the moment it issues he has to get out of his house; it is instantaneous. Such a proposition as that shocks me.

The CHAIRMAN. Your nerves are very weak this morning.

Mr. DAVIS. No, sir; they were never in a more sure condition. Why not let it stand thus: That you charge a man with having done something, convict him of it, and then turn him out?

The CHAIRMAN. You must have a poor opinion of the courts.

Mr. DAVIS. I have not a poor opinion of the courts.

The CHAIRMAN. Then let me reply to you.

Mr. DAVIS. Very well, sir.

The CHAIRMAN. You say a temporary injunction is immediate conviction. Suppose there is a nuisance in the place that is injurious to health all around. You must have instantaneous action.

Mr. DAVIS. Who says so?

The CHAIRMAN. Suppose there was.

Mr. DAVIS. Who says so?

The CHAIRMAN. The building commissioner makes a showing that immediate action is necessary. If he does not make that you will have a hearing——

Mr. DAVIS. No; I beg your pardon. The municipal underling comes in and swears that there is a nuisance before the man aimed at can have a chance. Here is an injunction which is an instantaneous injunction——

The CHAIRMAN. No.

Mr. DAVIS. Excuse me, that is the law here; the man must obey it. If the injunction goes, preliminary or final, the instant it is signed he has to get out.

The CHAIRMAN. No; but the instantaneous injunction is in the discretion of the court.

Mr. DAVIS. Suppose I am an assistant inspector of buildings on a salary of anywhere from \$30 a month up, and aged anywhere from 21 to 90 years, and I swear that your house is in an insanitary condition, and produce the requisite affidavit and make an application to court behind your back, and I get an injunction against your occupying that house, and you have to go out into the street. What do you think of it? That is the law here. That is the law here; the moment a pre-

liminary injunction is issued it has to be obeyed. And if I get such an injunction against you, out into the street or into the jail you must go without a hearing.

The CHAIRMAN. That may be done without a hearing if you let them issue a preliminary injunction——

Mr. DAVIS. That is a fact.

The CHAIRMAN (continuing). And a good many such things might be done in administering the law if you presume you have that kind of judges.

Mr. DAVIS. That is the possibility to which you subject every man here in this community.

In the line of Senator Mallory's suggestion, the Supreme Court of the United States, in this District, has settled the question that the Constitutional protection of the Constitution here is in the initial. We had a law here concerning trials in the police court. It provided that in case of conviction appeal could be had and trial by jury. But the Supreme Court said, "No; the constitutional right to trial by jury must be granted in the beginning, and this provision for appeal does not meet the requirements." It is exactly the thought that is in Senator Mallory's mind. The idea of telling me that a property owner here is going to be turned out of his property on the report of a board. Why, that would violate the sanctity of his castle, it would violate it without permission, and would condemn him, leaving him only the right to appeal if he had the time and money to do so. That is a proposition which, when I found it, made me wonder from what part of Russia the spirit that is back of it came.

The CHAIRMAN. There is nothing in such a suggestion—the court is not going to permit such an operation as that.

Mr. DAVIS. Well, it is possible.

The CHAIRMAN. And the Commissioners make rules and regulations as to what are sanitary buildings.

Mr. DAVIS. Don't you give an underling of the District the right to invade a man's home without the order of a court?

The CHAIRMAN. Yes, and your bill does, also.

Mr. DAVIS. I am not here for either one of them, I am not for either bill—I think both are vicious.

The CHAIRMAN. What do you want?

Mr. DAVIS. I think that you ought to give a citizen a chance to be heard before any man, judge or other man, shall say that he is guilty of anything.

The CHAIRMAN. Which bill are you for?

Mr. DAVIS. Bill 9293, with proper amendments, but I am not in favor of the proposition that the inspector of buildings or any other man designated by the Commissioners of the District of Columbia can enter my house whether I am present or not, whether my women are protected or not. I am not in favor of that.

The CHAIRMAN. Then you object to the preliminary injunction. What do you say? Who should have the power on hearings?

Mr. DAVIS. I say, leave it thus: When a man has violated the law hail him before the court and prove it; then if he does not comply get your injunction.

The CHAIRMAN. Then you do not object to that machinery, if you did not have the preliminary injunction?

Mr. DAVIS. I do not object to it if you prove that the situation exists to which the machinery applies. I have tried a great many of these cases, violations of the plumbing regulations, for instance, and such things, and it is very simple to tell a man in advance what he must not do. If he does what you tell him not to do, then accuse him and give him a chance to be heard.

The CHAIRMAN. Let us understand. You say the harsh part of it is the preliminary injunction?

Mr. DAVIS. Yes.

The CHAIRMAN. Suppose there was no preliminary injunction, but that he should have a hearing before the court. Would that be wrong?

Mr. DAVIS. That would be an improvement on the present idea, provided only that you should not let the underling enter the house first. That is what I particularly stand against. The proposition is a most monstrous one.

The CHAIRMAN. You would not have an inspector go into a house to see whether it was insanitary?

Mr. DAVIS. At his sweet will; no, sir.

The CHAIRMAN. It seems to me you must have inspectors to go in—

General STERNBERG. We would not enter buildings in the way suggested unless they were so insanitary that the condition would be obvious; unless it was the case, for instance, of a contagious disease like smallpox. If the castle idea goes so far as that, that no official of the District government can enter it under any circumstances, we may as well give up all thought of controlling infectious diseases.

Mr. DAVIS. I only say this: That from the time the first lisp of the English law was uttered no man has ever had the right, without warrant of law, without hearing, or unless it is in a clear case of criminal conduct, to have the threshold of his house crossed.

The CHAIRMAN. Then you are opposed to both bills?

Mr. DAVIS. I am as to that. I would not for one moment let any man enter the house of another citizen except in the cases which the law has always recognized as unavoidable. There has never been an epidemic here traceable to insanitary houses.

General STERNBERG. We have the largest tuberculosis mortality of any city except Los Angeles and Denver (where people go who have that disease), and they are in these insanitary houses in the District, here; and it is an infectious disease, which is transmitted from one to another. That is a question I do not propose to go into; but we have more deaths from tuberculosis than we have from the plague and from cholera put together in the city of Manila, and they are occurring in these insanitary houses.

Washington has an excessive typhoid mortality, and that typhoid mortality is very largely found in these insanitary houses. We have an enormous infant mortality, as large as New York City or any other city that I know of among the large cities of the country, and this is to be found very largely in these insanitary houses; that we wish to have condemned. We have been trying for years to improve this condition of things.

Mr. DAVIS. As I said before, no epidemic is traceable to these insanitary houses. These facts refer to the general prevalence of diseases, but not epidemics.

The CHAIRMAN. Do you have any objection to having the building

inspector clothed with authority to bring these cases before the court, and bring them at once—do you not think that would be about as direct a way of getting at it as any other way?

General STERNBERG. In the first place, it occurs to me that the building inspector is not necessarily a sanitarian, and a sanitarian is the man I would call upon to judge about a sanitary matter. I should think that that is work for men trained in that regard. And in regard to bringing them before the court and getting the district attorney to attend to it, I may say that I have been trying to get an alley condemned through a block for the last year, and everything is great, everybody wants it, but we can not get it done because the district attorney and his assistants are so busy they can not take it up. They have another condemnation proceeding that they must finish first. And if they are so busy as that how are they going to attend to those cases?

The CHAIRMAN. Then why not give it to a board not so busy? The health officer is very busy, he can not attend to it.

General STERNBERG. If you will make a board of medical men, men you can select who will serve—for instance, the president of the District Medical Society a member of that board.

The CHAIRMAN. Who is the president?

General STERNBERG. It changes.

Doctor KOBER. Doctor Richards.

General STERNBERG. He is a very busy man, but there is Doctor Kober, he has been interested in sanitary matters for a long time, and an expert, and has inspected these places.

The CHAIRMAN. General, would you serve?

General STERNBERG. Yes; I will serve on anything you see fit to detail me for.

Mr. DAVIS. Let me make a suggestion, if you please, which I came here to make. If I may make a personal allusion, for a number of years it was my function to try to administer the laws and regulations of the District of Columbia. I had this very same problem before me long years ago, when an attempt was made time and again to frame some sort of legislation that would cover just the thing that we are here trying to deal with. We always came up against the difficulty Senator Mallory has suggested, and the other difficulty, the one that I have suggested. You might take away the man's property without due process of law, which means that he has first to be heard before a court can judge against him, and you can not enter a man's house without violating his right of castle except in a very few instances that the law recognizes.

The CHAIRMAN. What would you do?

Mr. EDSON. You say you can not do anything.

Mr. DAVIS. No, sir. You can fix it so you can do something with regard to the rights of the individual citizens.

Senator GALLINGER (entering the room). As a member of the committee, I would like to ask Mr. Davis a question on the point of the man's castle. It is barely possible that in New Hampshire we are not guarding the right of the citizens as we should do, but in my little city we permit the representative of the gas company to enter private houses—

Mr. DAVIS. By contract.

Senator GALLINGER. And we allow the representative of the water

company to enter the private houses of the people to determine whether there is any waste of water.

Mr. DAVIS. That is by contract.

Senator GALLINGER. No; that is not by contract.

Mr. DAVIS. I beg your pardon.

Senator GALLINGER. How by contract?

Mr. DAVIS. Because you make your contract with the water company in the first place.

Senator GALLINGER. No; I do not think so. I certainly have never signed a contract.

Mr. DAVIS. You do the same thing with the gas company. Now, mark you, I do not stand here and say that there are no purposes for which a representative of the Government has a right to enter a private house, but I do say that this legislation is aimed to meet the humbler people in this community, the people who can not maintain palaces in cleanliness and the like.

Senator GALLINGER. Is it not rather intended to meet the men of means who are sustaining the condition of things in this city that is a disgrace to civilization?

Mr. DAVIS. Granted that is so; but the cost of it falls upon the tenant whose home is invaded in his absence when his women are alone in their houses unprotected.

Senator GALLINGER. I have gone through these alleys and I have found lots of unprotected women there, but some of them were protected by a good many men in the same room.

Mr. DAVIS. They would be safe so far as you are concerned, but it might not always be so.

The CHAIRMAN. I do not think we ought to waste time on this.

Mr. WOODWARD. My understanding is that if you pass this bill it becomes a law, and then you will have authority in law.

The CHAIRMAN. We want something practical.

Senator GALLINGER. Mr. Davis, I did not understand your closing remark in which you alluded to me.

Mr. DAVIS. I say in a case like the one you spoke of, of your going there, of course the women would not be in danger.

Senator GALLINGER. I went with Mr. Weller; I did not go on my own responsibility, and we were freely admitted in all cases.

Senator MALLORY. To come back to that crucial point of yours, do you mean to say that the United States Government has no police powers?

Mr. DAVIS. No, I do not; but the Supreme Court has come near saying it.

Senator MALLORY. You admit, then, that under the Constitution the United States can exercise police powers?

Mr. DAVIS. For the purpose of this discussion, yes; I will admit it.

Senator MALLORY. Quarantine is one of the police powers?

Mr. DAVIS. Indubitably.

Senator MALLORY. And a sovereign power, that has quarantine power under the police power, has a right to inspect any place, whether it is private or public, for the purpose of ascertaining whether there are germ conditions there.

Mr. DAVIS. Now, Senator, you have brought it exactly to the test. Quarantine is predicated on an assured condition of epidemic; that is exactly the point—

Senator MALLORY. I beg your pardon; the very signification of the word is to prevent disease.

Mr. DAVIS. In a given place, the disease being known to exist, and approaching, I grant that. That is quite a different thing. But I do say this, that neither the United States nor any of its officers has the right on the mere surmise that by an inspection there may be discovered disease in a building, to enter the building, to make, or to prove, or to disprove that surmise, and the contention I make is that there must be a showing at least of a probable existence of a situation justifying the inspection before the inspection could be made.

Senator MALLORY. I am inclined to think, Mr. Davis, that you will find the authorities against you in that. I think we have a perfect right to go under suitable restrictions, and officially to go into private premises to find out, as a precaution, the condition of those premises—whether it is such as to cause or spread disease. I believe we have that under the police power. And I think it is such a tremendous power that the courts have never undertaken to say what the limitations are.

Mr. DAVIS. Do you not think it is a dangerous power to be construed in that way?

Senator MALLORY. Yes; I think we ought to surround it with precautions, but I do believe that we have the power here to give to the officials of the District of Columbia the right to go into the private houses in cases of this kind.

The CHAIRMAN. Life is too short to spend the whole of it in argument—

Senator MALLORY. That is a very important point.

The CHAIRMAN. For, if we have no right to inspect them, then that is the whole of this legislation.

Senator GALLINGER. I do not know that I understood you, or perhaps you do not care to be interrupted?

The CHAIRMAN. Go ahead.

Senator GALLINGER. I do not know that I quite understood you. Supposing the health officer's attention is called to the fact that there is a case of smallpox or cholera in a house. You do not go to the extreme point of saying that he would have no right to enter that house?

Mr. DAVIS. No, sir; that is not what we are talking about. These bills are not aiming at any such thing as that. This bill allows any representative designated by the Commissioners at any time to go into a house and see if the house is in an insanitary condition.

Senator GALLINGER. What I was getting at is how far you carry your castle theory? The castle is still there and the man's trees are still there, if he has any.

Mr. DAVIS. That is true enough.

The CHAIRMAN. We can not spend all of our time on abstract questions. I would like to hear from the building inspector—

Mr. DAVIS. I would like to say one other thing, if you please.

The CHAIRMAN (continuing). In regard to what he can do.

Mr. DAVIS. Whatever he can do or can not do has to start with somebody. The question is whether you are going to start your inspection and make it as broad as this; whether you are going—

The CHAIRMAN. We can not spend the whole time in debating that question.

Mr. DAVIS. We have to put some safeguards around it.

Senator GALLINGER. One other suggestion on that point. I started out a good many years ago, having some knowledge of sanitary and medical matters, to urge that this very deplorable condition that exists here should be remedied, and I have been met constantly by the statement that there was no law that would enable the officials to remedy the conditions. Now, Mr. Davis, you are a very eminent lawyer, and if the law is not right do you think you could draft a law that would enable the officials to do that work?

Mr. DAVIS. I think I can draft a law that would come under the constitutional limit and be effective. Here you authorize a man, without notice, to walk into another man's house. If you are suspecting that a man's house is insanitary, then provide for a notice to be issued to him and ask him to show cause why the matter can not be inquired of by some court, the police court, if you please. If it is inquired of by that court and judged to be insanitary, then follow it up with preliminary injunction, and then, if necessary, punishment of the man; but do not open the doors of the humble dwellers of this town to these municipal underlings who may go in at their will.

Mr. EDSON. I would like to say one word in answer to his statement about the man's castle which the gentleman has been speaking of. That is more imaginary than real. I have visited these alleys and hovels and seen people with disease and have seen the insanitary conditions spreading the diseases, and I have not had one case where they have not welcomed me and opened the door—men and women—because they believed that we were there to better their condition.

Mr. DAVIS. Now we can meet on common ground. Why not enact a law to the effect that whenever the health officer, or any other person whom you designate, has reason to believe that the place is in an insanitary condition he shall serve notice on the tenant or owner and make him show cause somewhere where they can have a hearing?

The CHAIRMAN. There are several gentlemen here I want to hear from—

Mr. WOODWARD. The castle idea is very much magnified. We have been trying for years—some of us have been trying—to get better conditions in the health of the city. For instance, the infant mortality among the colored people is 457 out of a thousand. If that mortality is confined into three or four alleys, what better evidence do you want than that as to insanitary conditions?

STATEMENT OF HON. JOHN W. FOSTER.

Mr. Chairman and gentlemen, I came here at a little inconvenience and can not stay all the afternoon. I can not make a legal argument on this subject, but I want to call attention to a fact which is probably very well known to you—but it accents the present status of affairs—that for several years past gentlemen of this city like Mr. Woodward and Mr. Edson and Doctor Kober and General Sternberg, a committee of us, have been trying to work out this problem, and we have visited these bad alleys. We found the evil, and we have sought a method of remedying it. Bills were introduced at a previous Congress, and we understood that among others Senator Mallory had some constitutional objection to the bills then pending.

So our committee took the matter up anew this last year and

reexamined the question and had the matter in the hands of attorneys in this city, and the District Commissioners examined this bill, assisted in framing it, having experts from New York City and other cities whom we consulted, and we have framed a bill which we think will meet the objections that were advanced to the previous bill. This is a bill which has been examined by attorneys and which has been passed by the District Commissioners, and which we think meets the necessities of the case.

Now, here is a bill that has passed the House and has come to the Senate. We have reached the point almost for which we have been laboring—to get some authority by which these nuisances can be abated.

Now, it is not my intention to make a legal argument upon this question, but some of the provisions of this bill may involve doubtful questions of law. But is it not better that when you have this opportunity now to pass this bill that you should let it go to the court if necessary and let them decide these questions—

The CHAIRMAN. Can anybody suggest a bill that will suit everybody?

Mr. FOSTER. But in these doubtful legal questions about which Mr. Davis and I might talk a long while on without reaching a conclusion I think it is safe enough to let them go to the courts for determination as to the doubts. We can not settle it here, and this committee of gentlemen who have been laboring on this subject have reached the point where we think success is obtainable, if you will give us your assistance and take up the House bill and pass it. Let us try the test of application.

The CHAIRMAN. You do not think the Senate ought to amend it?

Mr. FOSTER. I would rather not have it done, but I do not say that it is not your business to amend it if you think it is your duty. We had hoped that a bill which has gone through these stages of examination and preparation might pass the scrutiny of the Senate, as it has passed the House. We have no interest in this matter except to do the best we can for this city, just as you have. I do not say that these gentlemen talking on the other side have any other interest and I do not think they have; but of course there will always be objections to any bill—there will be persons who represent these property owners who will always come up here and object.

I understood Mr. Davis to say that he is opposed to these bills and wants the law to stand as it is, with slight amendments.

Mr. DAVIS. No, sir; not at all.

The CHAIRMAN. We would like to hear now from the building inspector.

STATEMENT OF MR. SNOWDEN ASHFORD, INSPECTOR OF BUILDINGS.

Mr. Chairman, my attention was only called to this bill yesterday. I know very little about its requirements, except that I see the House has combined two objects in this bill.

The CHAIRMAN. Let me ask you this: Could your office, with such assistance, if you had ample assistance, go around through these alleys and report cases, if there were rules and regulations made? You would have the statute and then rules and regulations, and then could you look them up and report cases?

Mr. ASHFORD. I could, Senator, by working day and night with my present force—

The CHAIRMAN. What additional force would you require to do that?

Mr. ASHFORD. I should have at least three additional inspectors who might look this matter up and call it to my attention. Personally, I could not attend to it.

The CHAIRMAN. That is the trouble that we have—getting somebody that can personally attend to it. The present board can not attend to it. To my knowledge, they have more than they can do; they are overworked. I want to get somebody to attend to this business, so far as I am concerned, and I thought that was in your line. You have to examine the unsafe buildings, do you not?

Mr. ASHFORD. I examine the buildings and report it unsafe; yes, sir.

The CHAIRMAN. And new buildings?

Mr. ASHFORD. Yes.

The CHAIRMAN. Could you not make an examination of these and report on them if you had an additional force?

Mr. ASHFORD. I could if I had an additional force. I believe in a year or eighteen months the situation could be brought under control. At the present there are a great many insanitary buildings, although I am glad to say that there are a very few unsafe buildings.

Senator MALLORY. What do you mean by an insanitary building?

Mr. ASHFORD. I mean a building from which the light and air are excluded. I am not a sanitarian. I have certain regulations which I have looked up, and I am only acquainted with the subject so far as light and air and ventilation are concerned. What might cause one disease or another I am not competent to say.

Senator MALLORY. Does not a great deal depend upon conditions under which the building is occupied?

Mr. ASHFORD. Yes, sir.

Senator MALLORY. Of course we want a certain number of cubic feet of air, and a room that would accommodate two people would not accommodate six people. That is something that has to be taken into consideration. Do you do that?

Mr. ASHFORD. Yes, sir.

Senator MALLORY. You say there are a great many insanitary buildings; that is, do you mean the number of people living in them makes them insanitary, or is there anything in the structure, or the location, or the way in which the building is built that makes it an insanitary building?

Mr. ASHFORD. It is principally in the way the building is built. The fact is that since they were built conditions have changed, other houses have crowded around them, and the light and air, it may be, is shut out, and they are dark. There is no circulation of air, and there is no means—

The CHAIRMAN. You examine sewerage and ventilation also?

Mr. ASHFORD. Yes.

The CHAIRMAN. You are familiar with that business?

Mr. ASHFORD. Yes, sir.

The CHAIRMAN. It is in your line?

Mr. ASHFORD. I only find that out incidentally, though, in looking for the unsafe buildings.

The CHAIRMAN. You only know about that incidentally?

Mr. ASHFORD. Yes, sir.

The CHAIRMAN. The buildings are subjected to an examination as to sewerage and so on, are they not?

Mr. ASHFORD. There is the plumbing inspection, and the plumbing inspector looks after the sewerage.

Senator GALLINGER. He looks after the buildings if they have plumbing and sewerage in them.

Mr. ASHFORD. Yes.

Senator GALLINGER. But who looks after them when they have not any sewerage or plumbing?

Mr. ASHFORD. The health department.

Mr. DAVIS. The plumbing department, I think, because they have to get permission from the plumbing department. The plumbing department gives the orders for the plumbing to be put in.

Senator GALLINGER. If they haven't any sewers they can not have any plumbing.

Senator MALLORY. Are those buildings that have no plumbing or sewerage subject to supervision just as the buildings that have plumbing and sewerage are subject to inspection?

Mr. ASHFORD. They are under the supervision of the health department.

Senator MALLORY. Does the health department inspect them?

Mr. ASHFORD. Yes, sir.

The CHAIRMAN. What has been your observation in regard to these insanitary buildings in the alleys? Are they not generally owned by rich people and leased out to these people who live in them, and are the owners to a large extent nonresidents of the District?

Mr. ASHFORD. These buildings are generally owned by rich people; yes.

The CHAIRMAN. They are owned by rich people?

Mr. ASHFORD. Yes.

The CHAIRMAN. And they rent them to the poor people who live in these alleys?

Mr. ASHFORD. Yes, sir.

Mr. EDSON. These houses generally pay the best interest on the money invested of any class of buildings in the city.

The CHAIRMAN. Mr. Edson, what plan would you adopt to get right at the work? Would one man whose duty it was and responsibility it was to look at these cases and report them be the best; would one man be best?

Mr. EDSON. If he had nothing else to do, I think he would be. If we could have a man like General Sternberg here to take this matter in charge, I think that would be best.

The CHAIRMAN. I believe so; I believe one man like that could do it.

Mr. EDSON. I think it needs a man that understands sanitary matters—a physician, a doctor—and General Sternberg stands as high as any man in the United States, and we would be fortunate, indeed, to have such a man as he is.

General STERNBERG. I do not suppose it would be practicable to pass any law that would name a man.

Mr. EDSON. I agree with the chairman of this committee. To get at the point now of what we are now trying to do, it is to correct this bad condition of affairs that exists in this city. We have been trying to do it for years. You can frame a bill, as my friend Mr. Davis indicates, in the interest of these property owners that would be almost

impossible to carry out, hedged around with all the difficulties of that sort. What I hope for and wish to be done by Congress is that bill will be passed under which we can get to work and correct these evils.

The CHAIRMAN. If we have an opportunity we must try to avail ourselves of it, but I do not think there is any use in having a board. In my experience in business, boards for managing anything, unless they give their attention to it, are worse than nothing. I have a great deal to do with boards. Here the board of officers is overloaded with business and I think the building inspector might have time to go ahead and attend to this.

General STERNBERG. Mr. Chairman, may I say a word?

The CHAIRMAN. Yes, sir.

General STERNBERG. I think the idea is that the board would not necessarily be going around town inspecting all the time, but the attention of the board would be called to insanitary buildings by the health department or this voluntary organization to which we belong. We would see things in going around the city and we would give a great deal of attention to it, and we would report to the board. We would say, "There is a building that is evidently insanitary." Then it would become their duty to go there and inspect it. A board of three men composed in that way deciding upon a matter would seem to be able to render a more judicial opinion than a single individual. It would better meet the objection that Mr. Davis has made.

There are three selected men who decide that this building is unfit for habitation and that it should be closed up under the law.

The CHAIRMAN. I think one man is sufficient for that purpose, if we can get one man to do it. I have seen a good deal of boards in governmental and in private affairs. Mr. Woodward is a practical man. Mr. Woodward, what do you think about boards; do you not think that one man is better and that you can get more done with one man than you can with a board? You do not have to go to a board to see whether a house is in an insanitary condition?

Mr. WOODWARD. As an executive, yes.

Mr. DAVIS. Why would it not be feasible to give the health officer a couple of additional men?

The CHAIRMAN. He has enough duties now.

Mr. DAVIS. Let them make the rounds. That is a detail that I should think would meet itself.

Senator MALLORY. It occurs to me in consideration of the answer given by the building inspector, that the first step that Congress should take in this matter would be to declare what is an insanitary building.

Mr. WOODWARD. That is the object of the board.

Senator MALLORY. I would not care to leave it to the board. This gentleman [referring to the building inspector] can not say what is an insanitary building. He can say a building is not plumbed right or not properly constructed, but there are a hundred things constituting an insanitary building, and if Congress says a building is not built in a certain way or has not the right kind of plumbing, if it designates the requirements specifically and makes it a law, then you do not leave it to the discretion of the inspector.

He exercises his duties according to the facts and not according to his judgment. If he finds a building which does not fulfill the requirements of the law, then he reports it as a violation of the law, and you can punish the owner for a violation of the law, as well as tear down

the building. But under the answer of the gentleman a while ago, it strikes me one man, under this, might examine a building and consider it insanitary and then another man examine it and decide the building was all right. In other words, you are leaving a vast field there for discretion. It strikes me that one of the weak parts of this bill is that very point—that you do not declare what an insanitary building is. Remember, this does not pretend to be anything but a bill “To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes.”

General STERNBERG. The intention is that one member of this board at least shall be an expert sanitarian.

The CHAIRMAN. I do not like the word “expert.”

General STERNBERG. And there are a good many things constituting an insanitary building besides what you mention.

Senator MALLORY. That is the point I make. One gentleman on the board may think a building is insanitary and another may think it is not insanitary.

The CHAIRMAN. I would like to read the proposed amendments of the Senate bill and then criticise them.

This is H. R. 6289.

“That it shall be the duty of the inspector of buildings of the District of Columbia to examine into the sanitary condition and safety of all buildings in said District, and for that purpose shall have authority to enter the same whenever he shall be of opinion that such examination is necessary”—

I believe under the police power we have a right to do that—

“and it shall be the duty of the Commissioners of the District of Columbia to provide such assistants for the inspector of buildings as may be necessary to perform the duties herein required.”

He can have a plumber to assist in this thing.

“Said inspector of buildings shall from time to time report such investigations to the corporation counsel for said District, and upon receipt of such reports it shall be the duty of the said corporation counsel to cause notices to be served upon the persons complained of for violating the provisions of the acts of Congress or the regulations of the Commissioners of the District of Columbia, made in pursuance thereof as hereinafter provided”—

When there is complaint made to him he gives them notice—

“and if the alleged evils are not remedied within ten days after such notice, said corporation counsel shall proceed against said persons in the police court as in other cases of misdemeanors.”

Of course if it is a misdemeanor to keep it that way, they could make regulations—

“It shall also be the duty of the said corporation counsel, where the owners of property occupied as habitations allow their buildings to be or to remain in a condition prohibited by law or the regulations of the said Commissioners passed in pursuance thereof, to file a petition in equity against said persons in the supreme court of the District of Columbia in addition to the criminal proceedings hereinbefore provided for.”

In the first place, they get ten days' notice to remedy the conditions, so they are not cut off without a minute, and after that if they do not remedy it then a petition is filed.

“Said supreme court, in term time or vacation, may, on the filing

of such petition, by suitable process or decree in equity, enforce the provisions of this act and all regulations passed by said Commissioners, and said supreme court may, on application of the said corporation counsel, in its discretion, issue a preliminary injunction to restrain the use or occupation of any building or structure in the said District existing, erected, altered, or used in violation of law or the regulations of the said Commissioners made in pursuance of this act, and may on final hearing make such injunction perpetual."

He may, in his discretions grant a preliminary injunction. Now, this owner of the building would have ten days' notice and he could go and straighten it out; he would have ten days to rectify whatever was wrong.

Mr. DAVIS. Suppose he does not think the judgment of the inspector is sound?

The CHAIRMAN. Then he would go to the court.

Mr. DAVIS. But you would put him out before he had a chance to be heard?

The CHAIRMAN. The court in such a case would not give a preliminary injunction.

Mr. DAVIS. In other words, you take the risk of the court's good sense.

The CHAIRMAN. Having an honest judge.

Mr. DAVIS. No; not honest; an intelligent one.

The CHAIRMAN. An intelligent one; yes. [Reading:]

"SEC. 2. That every building in the District of Columbia used as a dwelling house or lodging house shall at all times have such drainage, water-closets, windows, and ventilation as the Commissioners of the District of Columbia shall by regulation require. And the said Commissioners are hereby empowered and directed to prohibit by regulation the occupation of any building or room in the District of Columbia which is not in a safe and sanitary condition and suitable for habitation."

General STERNBERG. That is excellent.

Mr. DAVIS. What is the meaning of that—"which is not in a safe and sanitary condition?"

The CHAIRMAN. It is very plain, just what it says.

"Said Commissioners shall from time to time, by regulations duly published, prescribe the conditions necessary for a room or dwelling to render it fit for habitation."

They will make the regulations as to that.

General STERNBERG. I may say, as representing the public health committee of the board of trade, that I think that section is admirable and I would be very sorry to see it left out.

The CHAIRMAN (reading):

"SEC. 3. That no room in any dwelling house shall be so overcrowded that there shall be afforded less than four hundred cubic feet of air to each adult and two hundred cubic feet of air to each child under twelve years of age occupying such room, and no dwelling house shall be so overcrowded that there shall be afforded in the living rooms and bedrooms of said house less than six hundred cubic feet of air to each individual occupying the same."

Mr. DAVIS. May I ask you a question for information? This question has been asked me, and I do not know how to answer it. Does this provision as it now stands mean to govern the ordinary use of the

house, or does it mean to apply to every hour of the twenty-four hours; in other words, would it be a violation of the section, if the bill should become a law, if during any one hour of the twenty-four hours the occupants of the room were so numerous as to allow less than 600 cubic feet of air to each individual occupying the same?

The CHAIRMAN. It would be in violation of this if 15 or 20 grown persons should go into a room 10 feet square to sleep.

Mr. DAVIS. It does not say "to sleep." I only ask you for information; there are a lot of people who do not understand it. I have been asked to explain it, and I can not do it because I do not understand it. Does it mean that they can not occupy it as a bedroom, or does it mean for the purpose of entertainment, or that a person could not invite a number of persons into a room, or what does it mean?

The CHAIRMAN. It means a bedroom.

Mr. DAVIS. It does not say so; that is the point.

The CHAIRMAN (reading).

"SEC. 4. That the Commissioners of the District of Columbia shall prescribe by regulation such notices as shall be given by the inspector of buildings to the owners or occupants of buildings unfit for habitation under the provisions of this act or the regulations of the said Commissioners made in pursuance thereof as may be proper and reasonable. That for the purposes of this act any notice required by law or by any regulation aforesaid to be served shall be deemed to have been served (a) if delivered to the person to be notified or if left with any adult person at the usual residence or place of business of the person to be notified, in the District of Columbia; or (b) if no such residence or place of business can be found in said District by reasonable search, if left with any adult person at the office of any agent of the person to be notified, which agent has any authority or duty with reference to the land or tenement to which said notice relates; or (c) if no such office can be found in said District by reasonable search, if forwarded by registered mail to the last known address of the person to be notified and not returned by the post-office authorities; or (d) if no address be known or can by reasonable diligence be ascertained, or if any notice forwarded as authorized by the preceding clause of this section be returned by the post-office authorities, if published on ten consecutive days in a daily newspaper published in the District of Columbia;"—

It is not necessary to go into all that. I think we will agree upon these provisions as to the notice.

Mr. DAVIS. There is one omission—" (e) if by reason of an outstanding, unrecorded transfer of title the name of the owner in fact can not be ascertained beyond a reasonable doubt, if served on the owner of record in the manner hereinbefore in this section provided." Assume that the owner of record in that case is a nonresident.

The CHAIRMAN. Then it applies to the publication of notice?

Mr. DAVIS. No; that is only in case of the real owner. That is merely a detail; that is all.

The CHAIRMAN. Then here is the next section (reading):

"SEC. 5. That any person violating or aiding or abetting in violating any of the provisions of this act or the regulations of the Commissioners of the District of Columbia made under its authority, shall, upon conviction in the police court of the District of Columbia, upon information filed in the name of said District, be punished by a fine

not more than one hundred dollars or by imprisonment for not more than ninety days; and each day on which said unlawful act is done, or during which such unlawful negligence continues, shall constitute a separate and distinct offense."

Senator MALLORY. Conviction of what?

The CHAIRMAN. They are not made regulations, you know.

Senator MALLORY. But the violation of what? They can not make laws and send a man to the penitentiary.

The CHAIRMAN. They do not go to the penitentiary.

Senator MALLORY. Or the District jail either. They can make rules and regulations, but we can not delegate the right to make laws. What are they convicted of?

The CHAIRMAN. Occupying the house against the rules laid down.

Senator MALLORY. Do you not think it would be better to specify what an insanitary building is?

The CHAIRMAN. We have provided that it shall not be occupied without so much air space and so on. That may require some further consideration. I think perhaps it does.

Mr. DAVIS. There ought to be some provision for special occasions, such as inaugurations and other events, when the city is crowded, and if you do not have one all the hotel keepers at such a time will be brought up in the police court and locked up for two or three days.

General STERNBERG. The occupation means occupation by the regular occupants.

Mr. DAVIS. That may be what it means, but it does not say so; that is the point.

The CHAIRMAN. The question is whether we shall leave it with the board or leave it to one man.

Senator MALLORY. Is the sanitary officer present?

Doctor WOODWARD. Yes, sir.

Senator MALLORY. I believe you are to be one of the members of this board?

Doctor WOODWARD. Yes, sir.

Senator MALLORY. Have you the time to attend to this business?

Doctor WOODWARD. If the duty were imposed on me I would have to find the time. In the proper discharge of the work of the department it would sooner or later be necessary to increase the number of inspectors, but for the duties of this board as laid down in this law I could find time.

STATEMENT OF DR. G. M. KOBER, REPRESENTING THE DISTRICT OF COLUMBIA MEDICAL SOCIETY.

Mr. Chairman, I would like to reinforce what has already been stated by the committee of laymen through Mr. Woodward. He practically presented the views which are the views of the medical society, in favor of House bill 9293. We are also decidedly in favor of such amendments as are suggested in the Senate bill by Senator Stewart, some of which are most admirable, and I would simply state that we practically indorse the report submitted by Mr. Woodward.

I would state for the information of Senator Mallory that the House bill 9293 practically defines what constitutes an insanitary building.

Senator MALLORY. Where is that?

Doctor KOBER. On the first page, line 9 of the original bill as it passed the House. It says:

"And have jurisdiction and authority to examine into the sanitary or safe condition of all buildings in said District, to condemn those buildings which are in such unsanitary or unsafe condition as to endanger the health or lives of the occupants thereof, or of persons living in the vicinity, and to cause all buildings to be put into sanitary or safe condition or to be vacated, demolished, and removed, as may be required by the provisions of this act."

The CHAIRMAN. But it does not say what an unsafe or an insanitary condition is.

Doctor KOBER. I think it defines it as near as you can give a definition; because we must consider anything that is insanitary to be anything that is inimical to the occupants of the house, and it is a question of judgment which must be exercised by experts, and I know of no experts more competent to do so than sanitarians. A building may be safe and yet be unhealthy. It may have safe foundations but be damp because slate has not been interposed, and the moisture from the ground may come up and render the entire house damp. So it really seems to me that that requires expert knowledge.

The CHAIRMAN. What do you mean by expert knowledge?

Doctor KOBER. There are three gentlemen named who have expert knowledge.

The CHAIRMAN. But what do you mean by expert knowledge?

Doctor KOBER. A man who possesses the peculiar knowledge necessary, who is a specialist in the particular branch which he represents. For instance, the health officer is an expert in sanitary matters, or he ought not to hold the office; and the building inspector must have expert knowledge in regard to the construction of buildings, and the engineer commissioner is a gentleman who is educated as an engineer and who ought to know something about the general principles of construction as regards safety and the necessary light and air that a building should have; and, on the whole, it seems to me that the composition of the board as originally suggested, to consist of the engineer commissioner, the health officer, and the building inspector is a most admirable one. And as it is a question requiring judgment, perhaps three heads are better than one. Besides, it will prevent arbitrary proceedings on the part of any one officer.

We now have a most excellent personnel. Our building inspector is certainly above reproach, and so is our health officer, but of course it is possible that at some time an incompetent man might hold one of these places, and I do not think that it ought to be left to the discretion of any one individual. We think it would be better to leave it to the board rather than to leave it to the opinion of any one individual.

Referring to the question raised by Mr. Davis, I want to bring out a case in point. It seems to me there ought to be some radical powers conferred on inspectors, that they ought to be permitted to enter a house of their own volition. I have a case in mind. I am the owner of an apartment house, and am frequently the victim of misdeeds of my neighbors. For instance, some pipes next to me burst and the water runs into my basement and in two or three hours it will be flooded. Now, if I have to wait until an injunction is served before being able to stop that, my basement is flooded and a great deal of damage is done.

Mr. DAVIS. That sort of a case is provided for. It is a private nuisance and you have the right to abate it.

Doctor KOBER. With expedition?

Mr. DAVIS. Yes.

Doctor KOBER. Perhaps so, but I did not think so.

So on the whole I would say that we heartily indorse the recommendations recommended by Mr. Woodward, and I am sure the committee will confer a great favor and certainly a great benefit upon the community and improve the sanitary conditions of the District of Columbia if they adopt the suggestions that have been offered in a proper spirit and unite on a bill that will advance the best interests of the community, and we shall greatly appreciate any action in that direction.

The CHAIRMAN. Is there anything respecting the health in this District that is attended to now? I do not think there is a place in the world where it is so difficult to get anything to eat that is wholesome. Nobody seems to pay any attention to it. I had some experience with the meat that is on the market here. I took a quarter of meat up to Ashburn and made sandwiches of it and came pretty near killing 200 men; 40 were very sick. I made an investigation and it was found that it was ptomaine poisoning. That meat was from Chicago and it looked all right, but it was not. That kind of meat is sent all around the country, and we know how often ptomaine poisoning comes from it.

It is the same way with milk that comes into this city. It is dirty and there is no proper inspection of it. And then another thing, as you know, is the condition of many of the alleys in the city. I have been working on these things and I can not get cooperation to any extent to help me. I wish you would examine this meat question. I have not drunk a glass of milk or put any milk in my coffee for six years unless I knew exactly where it came from.

Mr. BRIDE. I have been using your milk for some time, Senator.

The CHAIRMAN. I want this matter put in the hands of somebody who will attend to the thing and enforce it.

STATEMENT OF MR. JOHN JOY EDSON.

We want a practical bill that will hit the bull's-eye, and I simply wish to make the last appeal to this honorable committee, that if it is possible to fix this bill in a way that it will pass this Congress, we hope you will do so. We have been making efforts for four or five years to get some kind of legislation that will meet this condition, and these terrible conditions are on the increase, and they are a disgrace to this capital and would be to any city. It is humiliating for us to admit that the capital city of the nation has more tuberculosis cases than any other city (except where those cases go to die), and that, in proportion to population, more infants die here than in any other city in the country. Every citizen—every man that is here to-day that owns these houses or who represents men who own these houses, should join disinterestedly for the public good and endeavor to have a bill passed that will remedy these evils that are a disgrace to this city and an injury to the whole community.

The CHAIRMAN. What other officers have duties in this connection? For instance, there is the plumbing to be examined, and we have heard

from the building inspector. What other officers are in the business of examining buildings?

Mr. ASHFORD. I know of none except the inspector of buildings and the health officer and the inspector of plumbing.

The CHAIRMAN. The health officer does not make any examinations himself, does he?

Mr. ASHFORD. No; not personally.

The CHAIRMAN. I mean in actual duty. You are the inspector of buildings?

Mr. ASHFORD. Yes.

The CHAIRMAN. And there is the inspector of plumbing?

Mr. ASHFORD. Yes.

The CHAIRMAN. Does the inspector of plumbing have a good many men under him?

Mr. ASHFORD. There are water inspectors that go around and look after the water, but they limit their inspection to one particular thing; their inspections are limited to that one thing.

The CHAIRMAN. The inspector of plumbing and the inspector of buildings ought to cooperate.

Mr. ASHFORD. They are practically one officer.

The CHAIRMAN. In addition to that, what other officer would you want with them; that is, what practical man who does the work; how much more force would you want to attend to this, too? If you and the inspector of plumbing were given this business, could you report all these cases with what force you have got?

Mr. ASHFORD. I could report on the condition of the buildings.

The CHAIRMAN. The inspector of plumbing understands the plumbing, and you could report as to the air space and all that; you could report on ventilation?

Mr. ASHFORD. Yes, sir.

The CHAIRMAN. And he could report on the plumbing conditions?

Mr. ASHFORD. Yes, sir.

The CHAIRMAN. And you could pretty nearly cover it?

Mr. ASHFORD. Senator, it keeps me busy to look after the new buildings, without looking after the old ones.

The CHAIRMAN. You have as much as you can do?

Mr. ASHFORD. Yes, sir. Each man in my employ has about 180 buildings under his care at times; that is, new buildings in the course of erection. There are nearly 3,000 new buildings put up in the course of a year.

The CHAIRMAN. If you gave it to this board as proposed how would they execute it, through your office, or how?

Mr. ASHFORD. No, sir; it would be a combination of the assistants of all the other officers bringing these matters to our attention; it would be the health department, the plumbing inspector, and my office. I have nine assistants.

The CHAIRMAN. You have nine assistants?

Mr. ASHFORD. Yes; who go around the city.

The CHAIRMAN. I want the bill framed so it will do some good.

Mr. ASHFORD. If we take the inspectors of those three departments we would have between 25 and 30 assistants constantly going around the city, whose duty it would be to bring these matters to our attention. Of course we can not attend personally to every detail of the officer; but I know pretty well everything that goes on in my office,

and my assistants are simply my eyes. They tell me of a thing and then I investigate it. If a building is unsafe, or reported unsafe, I investigate it; I never condemn a building without seeing it myself. But I have the unsafe buildings to look after now, and this would be quite an addition to my duties to impose it upon me alone.

The CHAIRMAN. The inspector of plumbing and the water inspector are officers who are constantly going around the city?

Mr. ASHFORD. Yes, sir?

The CHAIRMAN. Why can not they be utilized to report to somebody whose duty it is to take the matter up?

General STERNBERG. A good many of these buildings in alleys have neither plumbing nor water. Very often there will be a hydrant in the alley, to which a great many families will have to go for their water supply. In many of these alleys they have open-box privies in the back yard.

The CHAIRMAN. The court would not allow those premises to be occupied under this bill.

Mr. WOODWARD. They ought not to be occupied.

The CHAIRMAN. The court would stop it. You do not want to simply condemn them, but you want to say that they shall not be occupied. If you would make a showing of this kind the court would attend to it. I believe that before we go ahead and create any board we ought to let the court pass upon it. I would like to see the court pass upon this. You will make rules and regulations and the court will be governed by them. I think you should say that the law is not compiled with unless the buildings conform to certain conditions which you fix, and then the court can pass upon that.

General STERNBERG. So far as my knowledge goes, in other cities his is largely put upon the health department, and the health officer and his assistants are expected to look after sanitary conditions.

The CHAIRMAN. The health officer has more than he can do.

Mr. BRIDE. They blame the milk and after that the water, and now the water is going to be remedied and they blame the houses.

The CHAIRMAN. The whole thing together makes a pretty bad combination now.

Mr. DAVIS. I confidently look for the announcement of the funeral of everybody present.

Mr. ASHFORD. May I call the attention of the committee to a bill which was passed and which is now a law, a bill approved March 1, 1899, as to the condemnation of unsafe buildings. That is a good law and it works all right. I have no trouble in gaining admission to residences or dwelling houses that are reported unsafe. I have never been refused admission.

The CHAIRMAN. And you will not be refused under this; the community will let them be examined.

Mr. ASHFORD. But the reason I call the attention of the committee to this law is that this law works very well.

The CHAIRMAN. Just read it.

Mr. ASHFORD. It is about buildings, and says that when any building is reported unsafe we shall have the right to enter in and condemn it if so found. Anyone may report that building unsafe. I make an investigation, and if I find it is unsafe I have to condemn it. Then they have the right of appeal within forty-eight hours.

The CHAIRMAN. Appeal to what—to a court?

Mr. ASHFORD. No, sir; to a commission, a jury of condemnation, as it is called.

In dealing with unsafe buildings, it is something that has to be done quickly, promptly, and the objection I have to this proposed law, and the only objection I have to it (this is the House bill 9293), is that it combines unsafe and insanitary buildings, and allows thirty days. In the meantime the building may collapse and kill hundreds of people. I am frequently called out of bed in the middle of the night, sometimes by reason of the fact that I am notified that some building is falling down.

The CHAIRMAN. Yes; you want quick action in such a case.

Mr. ASHFORD. Yes, sir; we do.

The caption refers to "insanitary buildings." But in the body of the bill it refers to "unsafe buildings." I think if the word "unsafe" was stricken out it would be all right so far as the insanitary buildings are concerned; but I would like to have this present law stand in regard to unsafe buildings, and if this bill (H. R. 9293) were to become a law in its present form it would seem to me that it would repeal the present law in regard to unsafe buildings.

The CHAIRMAN. We do not want to multiply officers; the person now examining into unsafe conditions could examine the whole thing.

Mr. ASHFORD. We might try it under two separate acts, because this act of 1899 is a good thing, and under that act I suppose I have taken down between sixty and eighty unsafe buildings, and I have never had any trouble, and I have never been confronted with any constitutional question.

The CHAIRMAN. I have heard of you and I am glad to hear what you have to say.

Senator MALLORY. Suppose somebody should refuse to permit you to enter, what would you do?

Mr. ASHFORD. Every building in this city is constructed under what Mr. Davis characterizes as an agreement, as a contract. George Washington, in 1791, made building regulations that applied to every building in this city.

Senator MALLORY. When they obtain a permit do they agree to let the Commissioners or the District authorities go in whenever they want to?

Mr. ASHFORD. Yes, sir. The building regulations of 1791 contain such provisions.

The CHAIRMAN. I have heard of one or two cases of outrage, where inspectors have insisted on entering premises without letting anyone know about it beforehand; but the parties were discharged, after being reprimanded. But there is no general complaint that the inspectors go where they ought not to, and I think they can be trusted, as a general thing, to act right.

Mr. ASHFORD. The complaints generally come from the owners or from the occupants of the buildings themselves. My attention is called to a matter very often by the occupants.

Mr. WOODWARD. Mr. Chairman, we are very much obliged for the time you have given us.

The CHAIRMAN. We are willing to give any amount of time necessary if we can accomplish something.

Mr. WOODWARD. Pardon me one moment more. You made the

remark that you did not like the idea of giving an owner only thirty days' notice to make some repairs.

The CHAIRMAN. He has thirty days under this bill.

Mr. WOODWARD. Ten days. If you had accepted an invitation from Mr. Edson or General Sternberg or myself to visit some of these alleys in this city we would have shown you buildings that we think would make you reverse your opinion.

The CHAIRMAN. The bill proposed by the Senate now would put it into quicker operation than any other—stop it that day.

Mr. WOODWARD. That is what we ought to do.

The CHAIRMAN. If you were to go to a court and make a proper complaint and have them make a preliminary injunction, you could put them out that day and then let the owner come and fight it out. There is nothing that can operate so quickly as an equity court. They make use of that in Boston, I am told by those who are familiar with it, and they say that is the most effective weapon they ever had. They can make a complaint and get immediate action.

Mr. WOODWARD. They have had no trouble at all.

The CHAIRMAN. They have had no trouble, I am told.

Mr. WOODWARD. I have letters now in my pocket to that effect.

The CHAIRMAN. The process they have adopted in Boston has been admirable. I think it has worked better there than in any other city; at least they get these cases settled quicker there than anywhere else I know of. They can move quicker by their process than you can by having a board to condemn.

STATEMENT OF MR. A. F. KINNAN, PRESIDENT OF THE BROOKLAND CITIZENS' ASSOCIATION.

Mr. KINNAN. Mr. Chairman and gentlemen, there is one matter that is of interest to us which has not been touched upon, a matter we are very vitally interested in, in the outskirts of the city.

I have no doubt this committee is going to do the proper thing, I have not any doubt of it at all; but House bill 6289, which has passed the House, provides for the abating of all nuisances, not only insanitary conditions in buildings, but of all nuisances. Now, out in the suburbs we are confronted with insanitary conditions of vacant lots. For instance, an embankment is thrown up and when it rains a pool is formed and the water remains there and becomes stagnant and mosquitoes breed there and it causes malaria. Another thing is, we have miles of granolithic sidewalk laid along by vacant lots, and the owners of the lots allow the dirt to wash down on those sidewalks, which of course is a great nuisance.

The CHAIRMAN. They are owned by parties who do not live here?

Mr. KINNAN. Nonresident property owners.

Now, what I want to suggest is that whatever you conclude is the proper way to get these things into court that you will also include in this bill the substance of this provision which is found in House bill 6289, as it passed the House, providing for abating other nuisances.

Senator MALLORY. You can abate nuisances now, can you not?

Mr. KINNAN. Not against nonresident property owners; no, sir. The District has no fund to go in and remove the unsanitary conditions.

Senator MALLORY. If they are public nuisances. There is a distinction between public nuisances and private nuisances. A public nui-

Mr. KINNAN. You can not prosecute a nonresident.

Mr. KINNAN. No, sir; and that is the point which is covered in bill 6289.

Mr. KINNAN. It is the whole thing.

Mr. KINNAN. That is all, but nothing else.

Mr. KINNAN. We want it to cover all insanitary conditions, and whatever way you decide is the proper way to reach nuisances we want it fixed so that we can reach nonresident property owners. If you do that you will accomplish what we are here to try to have accomplished.

We are very much obliged to the gentlemen who have given us information on this subject, and Senator Mallory and myself will work on the information we have received to try to get the bill in proper shape.

Doctor WOODWARD. Mr. Chairman and gentlemen, I come in response to instructions from Commissioner Macfarland to attend the meeting and to throw any light on the situation which I may be able to throw on it. I would like to emphasize one point made by the inspector of buildings, and that is in regard to this matter of incorporating "unsafe buildings" along with "insanitary buildings." That feature of the bill was incorporated—the "unsafe" buildings—on the floor of the House. It has never been recommended by the Commissioners. The objections to it are, of course, so manifest as to lead anyone to the conclusion that it must have been misunderstood at the other end of the Capitol and put in by mistake.

It is true that under the management of the board the work would probably be slower, but those who were interested——

Doctor WOODWARD. No, sir; the idea was that being a matter of discretion that we would get a better judgment by three men, one of whom is familiar with the structure of buildings and another of whom is familiar with the physiological processes of the individuals who are liable to be injured, and familiar with the causations and prevention of diseases, and a third of whom is equipped to a certain extent with reference to the laws of physics.

The suggestion has been made here to-day that an independent board should be appointed, made up of reputable citizens—citizens of such standing in the community that they would give the board special weight. The Commissioners took that matter under consideration and they recommended a board organized as proposed in the bill now under consideration. What conditions influenced them with respect to that I do not know, but I think I am safe in saying that so far as they are concerned there would be no strenuous objection to taking it out of the hands of us District underlings and putting it in the hands of representative citizens, such as Mr. Woodward, Mr. Edson, Doctor Kober, or others of that type.

Senator MALLORY. Congress would probably object to creating any new offices.

Doctor WOODWARD. There are so many boards now, that is true. We have the Board of Commissioners, the board of medical supervisors and medical examiners, the board of health, the school board, the Board of Charities, and others, until we are pretty nearly bored to death.

One objection has been raised, and that is to the possible arbitrary action on the part of this board in ejecting citizens from their homes. It might be that a board would more or less rashly undertake to go in and by force put citizens out of the condemned buildings, but I hardly imagine that would be the ordinary procedure of a properly constituted board. I think, rather, that in case of objection they would do as they would practically have to do—appeal to the courts.

Senator MALLORY. I think that objection to the provision in Senator Stewart's bill might be met by allowing the defendant to put in an affidavit on the application for preliminary examination before the court; in other words, give the defendant a hearing.

The CHAIRMAN. Give him a preliminary hearing?

Senator MALLORY. Yes.

The CHAIRMAN. That might be.

Doctor WOODWARD. As a matter of fact, this bill does not confer any right upon that board to go in and put people out. It confers the right to tear down a building, but that they will proceed to tear down a building over the head of an occupant is not to be imagined, and therefore while you may say, theoretically, that the effect of the bill will be to allow these people to go into houses and eject poor people into the alleys, practically I fail to see how the board would work in that way.

With reference to the proposed substitute, I am not in any way opposed to the proposed substitute, but there are certain features in it I would like to call attention to, so that when the subcommittee is considering it they may take the whole thing up together. One is the provision which occurs on page 5, in lines 16 and 17.

The CHAIRMAN. This is the Senate substitute you are speaking of?

Doctor WOODWARD. Yes, sir.

Senator MALLORY. Bill 6289, lines 16 and 17, on page 5?

Doctor WOODWARD. Yes, sir. It makes it the duty of the corporation counsel to cause notices to be served upon the persons complained of for violating the provisions of this act. I would like to suggest merely that the corporation counsel is practically equipped for the service of those notices only through some other department. If the Senate committee has that in mind, if they desire that the corporation counsel shall prepare these notices and cause them to be served, say,

through the police department, or through the building inspector's office, all well and good. I merely suggest that as a matter to be considered.

Senator MALLORY. Which department would be best?

Doctor WOODWARD. The police department can probably serve them the most expeditiously.

Senator MALLORY. I suppose they would best be served by the police department.

Doctor WOODWARD. The provision we have just spoken of is inconsistent with the provision on page 7, lines 13 and 14, which refers to the preparation or a prescription by the Commissioners of regulation of such notices as shall be given by the inspector of buildings to the owners or occupants.

The CHAIRMAN. Yes; I see.

Doctor WOODWARD. You see the two are inconsistent. I merely call attention to that.

The CHAIRMAN. That can be met.

Doctor WOODWARD. That would have to be taken into consideration in connection also with the clause which occurs in line 11, on page 9, which refers to the notices.

The CHAIRMAN. The inspector of buildings gives notice in the beginning, and then it goes to the attorney and the attorney proceeds.

Doctor WOODWARD. That is not apparently provided for, but that could be arranged. All these provisions should be made consistent with the provision in line 11, page 9, which refers not to the notice provided for in this act but simply to the notices provided for in this section. When we are dealing, as we are dealing in this bill, merely with the vacation of buildings and not with their demolition, it seems to me that the provision which enables a corporation counsel to call to his aid a court of equity is somewhat cumbersome, and, I will say, absolutely unnecessary, because when it comes to vacating a building there is always a man within reach of the criminal courts who can be handled.

The question is not one of dealing with the owner way off in California and requiring him to prevent the use of the building, but it is dealing with the occupant, and all you have to do is to notify him that the building is insanitary "by reason of your occupation," and tell him to get out. So that the more expeditious way it would seem would be to deal directly with the occupant. But I think it would be a great misfortune to vacate any considerable number of buildings, especially buildings in the alleys, and leave them unprotected and unoccupied. Such a condition would certainly hamper very seriously the work of the police department. Criminals would run into these alleys and, dodging into these idle buildings, could not be apprehended. I think the act should have incorporated with it—

The CHAIRMAN. The court would have power to take them down.

Doctor WOODWARD. It would be difficult to demonstrate that any particular building in that way was a nuisance, and the buildings would be owned by different persons, and when you came to bring process against a single individual you would probably be somewhat embarrassed as to what action to bring.

Then in line 18, page 6, I would suggest that the words "tenement house" be incorporated. You refer there to "dwelling house" and "lodging house" but not to "tenement house." In legislation of this kind you ought to cover as well what may be termed a "tenement house."

The CHAIRMAN. That is a lodging house or a dwelling house.

Doctor WOODWARD. A lodging house is defined usually as a house where people are taken to lodge for less than a week at a time, or for some brief period. Both of those terms might well be defined.

The CHAIRMAN. There is no objection to that.

Doctor WOODWARD. Then in line 4, page 7, it will be noted that the limitation on overcrowding applies solely to dwelling houses. Certainly if a distinction is made in section 2 between "dwelling house" and "lodging house" the court will consider that distinction as being carried forward into section 3 and would, in my humble opinion, refuse to apply that to a lodging house or a tenement house. I may be mistaken; that is a matter for the lawyers to consider.

Then in that section there seems to be a little uncertainty as to who will be the responsible party. There is a general provision that not more than a certain number of persons shall be in the room; but the question is whether you are going to hold the last man that comes in, or the owner, or all of them.

The CHAIRMAN. The injunction will be against its being used, and if they do not comply with the order its use will be stopped altogether.

Doctor WOODWARD. In view of a certain objection that has been made to one of the sections that provides for the service of notice I think I can explain one reason why the provision should be maintained. It has been objected that no provision should be made for the service on the owner of record if you can not find the real owner; but we are embarrassed from time to time when we take owners into court by having them say: "I don't own that property. I have disposed of it, and it is not my fault that the deed has not been placed on record." We have reason to believe that in most of those cases the transfer has been for the purpose of evading the process of the health department, and the local courts say it is extremely important that some such provision as that should be put in the bill that will be enacted.

For myself I can say that I have no desire other than to see suitable legislation go through. I will not feel in any way that my province has been intruded upon or that, either personally or officially, the office has been reflected upon by any change which leaves the health officer and health department entirely out of it. But I would like to see legislation of some kind enacted that will correct the conditions that now exist.

Senator MALLORY. You think the subject of pulling down unsafe buildings or buildings improperly constructed ought to be eliminated from the bill, and you think it ought to be confined to insanitary buildings?

Doctor WOODWARD. No, sir; I think in the substitute the provision for unsafe buildings should be eliminated, as it is already covered by existing law. I believe in connection with the vacation of buildings there ought to be provision for their demolition, so we will not have these buildings standing idle in court and alleys.

The CHAIRMAN. Why could not the court do that?

Doctor WOODWARD. I think it could if something of that kind was incorporated.

The CHAIRMAN. Well, that concludes, and we thank you gentlemen again.

Adjourned.

INDEX.

	Page.
Ashford, Mr. Snowden, inspector of buildings, statement of.....	20
Bill, H. R. 6289.....	3
Bill, H. R. 9293.....	5
Davis, Mr. Henry E., remarks of.....	12
Edson, John Joy, statement of.....	29
Foster, Hon. John W., statement of.....	19
Kinnan, Mr. A. F., statement of.....	33
Kober, Dr. G. M., statement of.....	27
Sternberg, Gen. G. M., remarks of.....	15
Woodward, Mr. S. W., statement of.....	8
Woodward, Dr. W. C., health officer, statement of.....	34



DISTRICT STREET RAILWAYS.

STATEMENTS

73

BEFORE THE

**SUBCOMMITTEE OF THE COMMITTEE ON THE
DISTRICT OF COLUMBIA,**

UNITED STATES SENATE,

CONSISTING OF

SENATORS GALLINGER (CHAIRMAN), HANSBROUGH, AND MALLORY,

ON THE

**BILL (S. 4106) TO REGULATE THE OPERATION OF STREET
RAILWAYS IN THE DISTRICT OF COLUMBIA,
AND FOR OTHER PURPOSES.**

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1904.

24.

DISTRICT STREET RAILWAYS.

MONDAY, *March 7, 1904.*

The subcommittee met at 10.30 a. m.

Present: Senators Gallinger (chairman), Hansbrough, and Mallory.

Also W. G. Henderson, chairman of the general committee representing the various citizens' associations of the District of Columbia; F. G. Coldren, Louis J. Jackson, and Barry Bulkley, representing the Business Men's Association; W. Mosby Williams, representing the East Washington Citizens' Association; L. L. Hooper, representing the Northwest Suburban Citizens' Association; G. A. Hill, representing the Cathedral Heights Citizens' Association; A. J. Curtis, representing the Benning Citizens' Association; A. F. Kinnan, representing the Brookland Citizens' Association; Frank J. Metcalf, representing the Brightwood Park Citizens' Association; A. E. McLaughlin, Wilton J. Lambert, George Truesdell, and others.

Also George T. Dunlop, president of the Capital Traction Company, and Gen. George H. Harries, vice-president of the Washington Railway and Electric Company.

OPENING STATEMENT BY THE CHAIRMAN.

The CHAIRMAN (Senator Gallinger). In response to numerous letters and petitions from citizens of the District of Columbia urging this committee to take up and report favorably the bill (S. 4106) to regulate the operation of street railways in the District of Columbia, and for other purposes, I have invited you, gentlemen, to come here this morning for the purpose of a little informal discussion as to the merits of the bill.

There is before the committee another bill (S. 3599) to require the use of closed and heated street cars in the District of Columbia, which has not as yet had consideration. In looking over the two bills it occurs to me that all the provisions of the latter bill are included in the former, which is a much more comprehensive bill than Senate bill 3599.

So we will confine ourselves this morning to a discussion of Senate bill 4106, and I will suggest to you, gentlemen, representing whatever interests you may represent, that in the discussion of the measure you make your remarks as brief as is possible, for the reason that this committee is absolutely overwhelmed with work and can not give as much attention to these matters as some of our friends on the outside think we ought to do. We simply have not time to do what you may possibly think it is our duty to do in matters of this kind.

I will at this point read the text of the bill so that all present may know the purport of it. It is as follows:

A BILL (S. 4106) to regulate the operation of street railways in the District of Columbia, and for other purposes.

Be it enacted, etc., That after six months from the approval of this act it shall be unlawful for any street-railway company owning or operating any street railway in the District of Columbia to place or operate upon any portion of its line within the limits of the city of Washington any car of greater weight than ten tons: *Provided,* That cars weighing more than ten tons may be operated over and upon such streets and avenues in the city of Washington as the Commissioners of the District of Columbia may approve, but only upon special permits issued therefor, which permits shall prescribe the weight of such cars to be so operated, the rate of speed at which they shall operate, and any other conditions necessary for the protection of life, property, and the public comfort which said Commissioners may incorporate therein, and to contain a special provision that for any violation of the terms of the permit the same shall be revoked. And hereafter no cars constructed, purchased, or leased after the approval of this act shall be run or operated on any street-railway line or lines within the District of Columbia without having first been approved by the Commissioners of said District.

SEC. 2. That each and every street-railway company now operating within the limits of the District of Columbia shall, within thirty days after the passage of this act, and each and every such company which may hereafter operate therein shall, before commencing such operation, and all such companies shall, on the first day of January of each year, and at such other times as the said Commissioners may direct, submit to the Commissioners of the District of Columbia a time schedule of the running of its cars, and of the routes and destinations thereof, and of all transfer arrangements relating thereto, on each and every line or branch thereof operated by said railway company within the District of Columbia, and the Commissioners of the District of Columbia shall approve such schedule, routes, and destinations and transfer arrangements, said Commissioners having, however, full power first to make such alterations or changes therein as they may consider necessary for the interests of the public, and it shall be unlawful for any of the said railway companies to run or operate its cars upon any other schedule or route or to any other destination or upon any other transfer arrangement than that approved by said Commissioners.

SEC. 3. That each car run upon each of the street railways of the District of Columbia shall at all times be kept in good repair and in a clean and proper condition; all fenders thereon shall at all times be in good working condition, and no car shall be used which, by reason of a flattened wheel, broken flange, loosened parts, or any other cause, makes, or is liable to make, cause, or produce unnecessary noise or annoyance upon the public street. During cold or inclement weather it shall be unlawful, after the first day of November, nineteen hundred and four, upon any of the said lines to operate any open car other than a trailer, or any closed car which shall not be artificially heated so as to preserve a temperature of at least fifty degrees Fahrenheit: *Provided,* That whenever, in the judgment of said Commissioners, the

public interests require it the said street railway companies shall erect or provide properly lighted and heated waiting rooms at all transfer points, the cost and maintenance thereof to be borne by the companies whose lines intersect at such points, and also at such termini and way stations as the said Commissioners may direct. All questions relating to the cost and maintenance thereof, in the event of the railway companies affected being unable to agree between themselves, shall, on the petition of any railway company affected, be determined by the supreme court of said District: *And provided further*, That emergency brakes shall be placed upon each car operated on any line of street railway in the District of Columbia, any portion of the road of which for more than fifteen hundred feet of its length has a grade greater than five per centum.

SEC. 4. That so much of section five of the act of February twenty-sixth, eighteen hundred and ninety-five (twenty-eighth Statutes, page six hundred and eighty-two), as authorized the Brightwood Railway Company and the Georgetown and Tenallytown Railroad Company to sell four coupon tickets for twenty-five cents for a continuous trip over either of said roads, respectively, and the Metropolitan Railroad be, and the same is hereby, repealed: *Provided*, That nothing in this section shall be construed to repeal section three of the act of July seventh, eighteen hundred and ninety-eight, entitled "An act to require the Brightwood Railway Company to abandon its overhead trolley on Kenyon street, between Seventh and Fourteenth streets," the provision of said section three of said act of July seventh, eighteen hundred and ninety-eight, being hereby made a part of this act, and such portions of section five of the act of February twenty-sixth, eighteen hundred and ninety-five, as are retained in said section three of the act of July seventh, eighteen hundred and ninety-eight, for the purpose of providing penalties for violations of said section three, are hereby specifically retained and made a part hereof: *Provided further*, That it shall be unlawful to charge more than the present legal fare for one car ride, namely, one cash fare of five cents, or at the rate of six tickets for twenty-five cents, for a single trip in either direction within the District of Columbia between any point on the Brightwood Railway or on the Georgetown and Tenallytown Railroad to any point on the lines of the Washington Railway and Electric Company.

SEC. 5. That every suburban street railroad in the District of Columbia whose tracks now intersect or connect with, or hereafter may be made to intersect or connect with, tracks of any of the urban street railroads in said District, is hereby authorized, directed, and required, subject to the limitations contained in section one of this act, to run cars on and over the tracks of said urban street railroads into the business sections of the city of Washington. And each urban street railroad is hereby required to permit said suburban street railroads to run cars over its several lines as aforesaid in accordance with the provisions of section five of an act to authorize the Metropolitan Railroad Company to change its motive power for the propulsion of the cars of said company, approved August second, eighteen hundred and ninety-four. The compensation therefor and all matters relating thereto not hereinbefore provided for, in the event of said railroad companies being unable to agree between themselves, shall from time to time, on petition of any railroad company, be determined by the supreme court of said District: *Provided*, That this section shall apply in all cases

whether the ownership, control, or charge of any such suburban railroad is vested in the same company owning, controlling, or in charge of the intersecting or connecting urban railroad, or in a different company.

SEC. 6. That for any violation of any of the provisions or requirements of this act, or of any regulation made by the Commissioners of the District of Columbia under the authority of this act, the railway company so violating, and the president, the vice-president, and each of the directors of the company owning, controlling, or in charge of said railway shall be jointly and severally liable to a fine of not less than twenty dollars nor more than one hundred dollars for each and every such violation, to be recovered in the police court of the District of Columbia as other fines and penalties are now recovered by law; and it shall be the duty of said Commissioners to institute proceedings for the recovery thereof: *Provided*, That each and every day wherein any of the provisions or requirements of this act, or of any regulation made by the Commissioners of the District of Columbia under the authority of this act, shall be violated shall constitute a separate offense.

SEC. 7. That prosecutions for violations of the provisions of this act, or any regulations made thereunder, shall be on information filed in the police court by the corporation counsel in the name of the District of Columbia; and said corporation counsel shall file such informations upon the presentation to him of sworn information of two residents of said District that the law or regulation has been violated.

SEC. 8. That all acts or parts of acts inconsistent with the provisions hereof are hereby repealed.

THE CHAIRMAN. We will now hear from the friends of the proposed legislation.

STATEMENT OF W. G. HENDERSON, REPRESENTING THE VARIOUS CITIZENS' ASSOCIATIONS OF THE DISTRICT OF COLUMBIA.

MR. HENDERSON. Mr. Chairman and gentlemen of the committee, inasmuch as I am, fortunately or unfortunately, the chairman of the joint committee on street railways, that committee being composed of delegates from the various citizens' associations of the District of Columbia, of which there are some eighteen or more, I suppose it is proper that I should open the discussion upon the subject before you. I shall endeavor to be brief and to state to you the reasons which have led to the action on the part of the joint committee of the various associations to advocate enactment of these provisions into law.

I will state, first, that the bill as a whole has been very carefully considered by the joint committee at numerous meetings of the committee, all of which were well attended by the delegates, and a hearing was had before the Commissioners last year on a bill with provisions similar to this measure. The various associations at that hearing had an opportunity to present their views to the Commissioners, and I believe the Commissioners have given their indorsement to the bill, possibly in a report to this committee.

Now, it will be difficult and time will not permit to individually discuss each section of the bill. I will direct my own remarks more particularly to section 2. The other members or delegates present from

some of the associations will probably speak upon other provisions. Section 2 provides:

"That each and every street railway company now operating within the limits of the District of Columbia shall, within thirty days after the passage of this act, and each and every such company which may hereafter operate therein shall, before commencing such operation, and all such companies shall, on the first day of January of each year, and at such other times as the said Commissioners may direct, submit to the Commissioners of the District of Columbia a time schedule of the running of its cars, and of the routes and destinations thereof, and of all transfer arrangements relating thereto, on each and every line or branch thereof operated by said railway company within the District of Columbia, and the Commissioners of the District of Columbia shall approve such schedule, routes, and destinations and transfer arrangements, said Commissioners having, however, full power first to make such alterations or changes therein as they may consider necessary for the interests of the public, and it shall be unlawful for any of the said railway companies to run or operate its cars upon any other schedule or route or to any other destination or upon any other transfer arrangement than that approved by said Commissioners."

Now, permit me to say that substantially the provisions and the spirit of this section of the proposed law already exist in street railway legislation affecting the street roads in the District of Columbia, with possibly the one exception of the destination or routes of the cars. If the committee has an opportunity in the future to examine the street railway legislation you will find that in every charter granted up to the present time and in amendments to various charters there is a provision in substance as follows:

"Said company shall place first-class cars on said railway with all the modern improvements for the convenience and comfort of passengers, and shall run cars thereon as often as the public convenience may require, the time table, or schedule of time, to be approved by the Commissioners of the District of Columbia."

Senator GALLINGER. Let me ask you just there, if the Commissioners have the power now, why we are to legislate to grant them a power they can now exercise?

Mr. HENDERSON. Mr. Chairman, in answer I will say that the Commissioners are powerless under the present legislation. The legislation provides what the railroad companies shall do for the convenience and comforts of their patrons. It provides further that they shall submit their schedules to the Commissioners for their approval, and there it stops short.

It was the practice, and it may be the practice now—I do not know about that—for the companies to submit their schedules to the Commissioners, but if the Commissioners did not approve of those schedules, or desired changes to be made, they could merely make the suggestions to the company, and if it did not suit the purposes of the company to adopt those suggestions the suggestions amounted to nothing. The company then continued to run their cars as they pleased. The Commissioners were powerless. There was no penalty to which the company would be subjected if the Commissioners made a change and the company failed to comply with the change required by the Commissioners.

Senator GALLINGER. I observe that the section to which you are

addressing yourself provides that the Commissioners "shall approve such schedule, routes, and destinations and transfer arrangements." What is meant by the word "destinations" in that connection?

Mr. HENDERSON. It means in this section, as I understand it, that the Commissioners shall direct the point to which the cars shall be run.

Senator GALLINGER. Do you mean to give them the power to extend routes.

Mr. HENDERSON. Not to extend routes, but where there are existing railroad tracks the Commissioners shall say to what point on those tracks the cars shall run. In other words, to my mind it embodies in substance the provision of a later section of the bill which has reference to the running of suburban cars into the business section of the District. To my mind it is sufficiently comprehensive to give the Commissioners power to decide whether those cars shall be run into the business section of the city and to what point in the business section they shall run.

Senator MALLORY. Can you give an illustration of any specific abuse which you are trying to hit at in this provision?

Mr. HENDERSON. Yes, sir. First, as to the schedule under which the cars shall run. It is a notorious fact that to-day the companies are violating the section with regard to the running of the schedules and the other section with regard to the running of cars so that they shall accommodate the traveling public. There are hours of the day, morning, evening, and at night when the cars, especially on some of the lines, are so crowded that it is impossible to get a footing even on the platform, even upon the step of the platform.

Senator GALLINGER. Is not that true of every city of the American Union?

Mr. HENDERSON. It is true with regard to certain hours of the day that the cars are crowded. It is not true, I take it, if you will permit me to say it, that the cars are so crowded that the passengers are obliged to stand upon the step of the platform and to even find standing room upon the ledge at the back of the platform outside of the car.

Now, that is a common occurrence here, day after day, morning, afternoon, and night. You can not wait for one car to pass and another to come and always get a seat or comfortable standing room upon that second car. Oftentimes it is necessary to wait for three or four cars to pass.

Senator GALLINGER. On what lines does this condition exist more particularly?

Mr. HENDERSON. I can speak from personal experience of the City and Suburban Line, because I happen to be a patron of that line. I am a patron of all the lines, but perhaps of that line more frequently than any other. Day and night I have been obliged to wait time and again for two, three, and sometimes for a fourth car before I could get on. It is only two weeks ago that I happened to get on a car which was so literally packed inside and out that it was impossible to get my hand in my pocket and get my fare, and it made my blood run cold and made me shudder to see standing on the step of the platform a young lady holding on to the rail in order that she might get to her home. I tell you, Senators, it is a question of probable injury to life and limb the way the people are obliged to cling on to some of those cars in order to get to their homes and to get back again.

Senator GALLINGER. At what hours of the day more particularly do you find this condition to exist?

Mr. HENDERSON. I have observed that condition more particularly in the afternoon, from 4 o'clock. I have observed it again as late as 11 o'clock at night. On that line from 8 o'clock, I think it is, or thereabouts, until the last car turns in there is a thirty-minute schedule, and as late as 11 o'clock at night I have been obliged to let a car pass me because I could not get standing room even on the platform or on the step, in order that I might get into the next car to get to my home. Now, that is a not infrequent occurrence.

Senator MALLORY. As to the destination, that is a point I want you to illustrate, if you can. You speak in this section of fixing the destination by the interposition of the Commissioners, if they should think it necessary, and I infer from what you say that there are certain lines on which all the cars do not run to the same destination; that although they run over the same track, some stop short. Can you illustrate that? Do you know of any particular instances in which that happens?

Mr. HENDERSON. Well, I can cite two instances. Perhaps other members of the associations present can speak more directly to the point than I can. I understand that on the Tenallytown road, for instance, which comes to my mind at this time, the cars are run to a certain point in Georgetown and a transfer must be taken at that point. They do not run down into the business section of the city. If I remember correctly, it is also true with reference to the Brightwood line, where I think the cars run to a point north of Florida avenue and there a change is made.

Senator GALLINGER. Is it your purpose, then, to compel the companies to run their cars without transferring? Is that the purpose?

Mr. HENDERSON. The purpose would be that under that destination provision, if the necessities of the case required it, the Commissioners could direct that those cars should be run down into the business section of the city without a transfer. That would result, of course.

Senator MALLORY. Let me ask you about the red car that runs up Fourteenth street and comes down on the Fourteenth street line, which stops at the Treasury Department.

Mr. HENDERSON. Yes, sir; that is on the Rock Creek road.

Senator MALLORY. Is it not really intended for the convenience of people coming in from the country that it should stop at the Treasury and not go beyond?

Mr. HENDERSON. I imagine that it is, your honor, and to my mind it would seem to me that when you get to that point you are in the business section of the city.

Senator MALLORY. According to this provision I would infer that that might possibly be an objection, and you might want that car to run farther and come on down here to the Capitol, as the other Fourteenth street cars do.

Mr. HENDERSON. No; it says "destination." The other section says "suburban cars to run into the business section of the District." Personally I should think a car running to that point would accommodate the public sufficiently. Permit me to say, Senators, that this is not mandatory as to the point to which they shall run.

Mr. WILLIAMS. If you will permit me, I will state that down in the southeast the cars to the Congressional Cemetery do not run at all.

Mr. HENDERSON. There is another instance of not reaching the destination.

Mr. WILLIAMS. On that line the cars are not running at all.

Senator GALLINGER. Is there not a line in that immediate vicinity.

General HARRIES. That line has been abandoned.

Senator GALLINGER. I was going to say that I think one line has been abandoned by law. Is that the case, Mr. Williams?

Mr. WILLIAMS. The tracks are still there.

Senator GALLINGER. Yes; the tracks are still there, but the line has been abandoned, and there is another line running near that point which accommodates the people.

Mr. WILLIAMS. Not reaching the cemetery.

Senator GALLINGER. No; not reaching the cemetery, but in that vicinity.

Mr. HENDERSON. Your honors will observe that this bill purposely refrains from stating the destination to which cars shall run, the supposition being that the Commissioners of the District, sitting as an impartial tribunal between the citizens and the railroad companies, will hear the representatives of the railroad companies (and they unquestionably will be heard, and ask for a hearing, and it will be granted), and they will also hear the representations made by the different citizens who may appear before them, and they, as an impartial tribunal, will judge from what is presented to them as to what is a reasonable accommodation to the public in these features.

Senator GALLINGER. Mr. Henderson, just at that point I should like to ask you a question. Of course I will not interrupt you if you prefer I should not do so.

Mr. HENDERSON. All right; I am perfectly willing to be interrupted.

Senator GALLINGER. We get information better sometimes by asking questions.

Is it your deliberate opinion that the Commissioners of the District of Columbia, with their multifarious duties, can take upon themselves the added duties that are imposed by this bill and practically run the street railroads of the District of Columbia?

Mr. HENDERSON. Senator, in answer to that question, I think they are perfectly competent to do it. I say that they have the time to do it. I think that the railroad companies would only be doing then what the law says to-day they shall do—that they shall run their cars on a schedule that will accommodate the traveling public, and that the Commissioners shall have power to supervise those schedules. That power you have already given them in every act passed up to this date. But you have stopped short by failing to impose a penalty, leaving the Commissioners powerless, so that the companies can do as they please.

Senator GALLINGER. We have not given the Commissioners the authority to dictate the size and weight of cars, and all the details included in this bill.

Mr. HENDERSON. Now, upon the question of weight of cars, at the commencement of the bill it provides that the weight shall be not more than 10 tons. There is only one instance to my mind at this moment where the Senate has, through the report of this honorable committee, the Committee on the District of Columbia, taken action with regard to the weight of the cars. I am not going to discuss the justice or

injustice of that requirement; but your honors will remember that a year ago, or thereabouts, there was great complaint from the residents of the northwest section with reference to the running of heavy cars, and there was by either an addition to some bill, or a joint resolution, or something of that character, provision made by which those cars should be taken off, and they were taken off.

General HARRIES. That is incorrect. There was never any legislation here on the subject.

The CHAIRMAN. General Harries is correct on that point.

Mr. HENDERSON. Then I stand corrected. Perhaps it was not by legislation, but some steps were taken in that direction.

Now, Mr. Chairman, you will observe that this bill, even with reference to the weight of the cars, does not say that a car above the weight specified here shall not under any and all conditions be run into the city, because it gives the Commissioners power to make exceptions to the general provision. There is a general provision, and then, assuming that there may be exceptions, the bill gives the Commissioners power to allow it to be done in those exceptional cases.

I wish to say further that there is also in various acts incorporating railway companies here provision for the location of waiting stations, or passenger houses, as they are called in places, and at other times waiting rooms. That is one provision in this bill. The basis for that is found in previous legislation. There is also previous legislation providing that transfer points shall be arranged under the direction of the Commissioners.

Senator GALLINGER. Mr. Henderson, just there, in regard to the waiting-station business, which has been agitated a good deal, I am more familiar with Boston and New York than any other cities, though I have happened to drop into all the other large cities of the country. Can you cite any instance where they have a system of waiting stations?

Mr. HENDERSON. I can not, sir.

Mr. HOOPER. They have at Cambridge, where they change cars for Mount Auburn and North Cambridge.

Senator GALLINGER. I am very familiar with those points. There is an old building that you can go in there, if you choose.

Mr. HILL. Do you remember North Cambridge? Do you remember Wellesley and out at Charles River? There are waiting rooms all along.

Senator GALLINGER. Yes; they have some old buildings in the suburbs, which they occupy, I believe, for that purpose, but I think you are mistaken as to North Cambridge.

Mr. HENDERSON. As I said, Mr. Chairman, this is simply in keeping with the legislation that has already been enacted time and again by the Congress of the United States. So far as the schedule is concerned, so far as the convenience of the people is concerned, Congress has always had in mind in granting these charters that the companies shall run their cars so as to reasonably accommodate the traveling public.

Now, there ought to be some impartial tribunal that shall determine whether the public is accommodated or not. Do not leave it to the railroad companies. Do not leave it to the citizens. Of course the citizens would be powerless. They can rise and complain as often as they please, but they are powerless to do anything. Let there be an impartial tribunal who shall determine what is a schedule such as will

reasonably accommodate the people. That is all that is sought. We can not appeal to Congress at every session. You know how your time is occupied. You can enact these laws, but you must have somebody to see that the laws are properly executed.

If there has been a necessity in every one of the laws passed up to this time for providing that the public shall be accommodated in the schedules, and that the Commissioners shall have power to approve those schedules, certainly it was the spirit and intent of Congress in enacting those laws that the Commissioners should have some power to make changes in those schedules. But they are powerless.

You should also provide a penalty. When the Commissioners exercise the power you have already given them and which we hope you will continue to place upon them, there ought to be some penalty to which the company will be subjected if it fails to obey the will of Congress as it is executed through the Commissioners of the District of Columbia.

Senator GALLINGER. If we put the street railroads of the District of Columbia practically under the control of the Commissioners in all matters of detail, why not all public utilities?

Mr. HENDERSON. You have already, in many instances, placed many matters under the direction of the Commissioners; that is, matters concerning various corporations in the District of Columbia. You have enacted your insurance law. You have provided therefor a special officer—an insurance commissioner.

Senator GALLINGER. But that is not a public utility. That is different.

Mr. HENDERSON. It is not a public utility; but it seems to me there is more reason why corporations that are of a public utilitarian character should be under the control of an impartial body.

Senator GALLINGER. We assume that Congress is reasonably impartial.

Mr. HENDERSON. It is always impartial, and its intentions are good; but, as I have pointed out to you, in the legislation up to this time it has fallen short in this, that it has made no provision by which the Commissioners may enforce the power that you have conferred upon them.

Senator GALLINGER. There is one other practical matter included in section 3 that I should like to have you discuss briefly. I see that you propose to require the cars to be heated to 50° F. Do you think that that is a possible thing to do?

Mr. HENDERSON. I think so.

Senator GALLINGER. Let me illustrate it, Mr. Henderson, because we want information. That is what we are here for. I started from the Capitol the other day in a car that was heated certainly up to the point of 50° when it started. I should not want to have it any warmer than that with a thick overcoat on. I counted the passengers who came in between the Capitol and the transfer station at Seventh street, and out of 35 passengers 18 of them left the door open on a very cold day, and in two or three instances the door was open for two or three minutes. The heat of that car was very much less than 50° by the time it got to Seventh street. Now, under this bill the company would have been liable for any complaint that might have been brought against it.

Mr. HENDERSON. Mr. Chairman, it seems to me that in a case of that sort there would not have been even a violation of this law if it

was upon the statute books. If they make provision to heat the car and do heat it, that heat may fluctuate by reason of inconsiderate passengers sometimes leaving the door open, and fluctuations of that sort would not be a violation of the law. The company did heat the car to that temperature, and endeavored to keep it so, and, upon the whole, did keep it at that or might approximate it.

Senator GALLINGER. That is the very thing they do now, I apprehend, is it not? Where is the grievance?

Mr. HENDERSON. So far as my personal experience goes I must say that I find the cars, as a rule, comfortably heated. Some others may not be so fortunate as to travel in cars that are heated. I do not know how that is. But upon that point you will know that already there is provision, especially in the charter of the Rock Creek Railway Company, which has been merged in the Capital Traction, that they shall heat their cars.

Senator GALLINGER. I understand that.

Mr. HENDERSON. And, by the way, there is provision there which is not asked for here, that the company shall not take upon its cars any more passengers than can be accommodated. That provision we do not ask for. We are satisfied if we can get comfortable standing room in a car. But when it is the experience of citizens that the cars are so crowded that they can not get on, and are obliged to stand out upon the platform in danger to limb and life, it is a serious question, and your honors ought to place the power somewhere to see that that condition of things shall not exist.

Senator GALLINGER. Now, here is another point I should like you to elucidate a little. Section 3 provides that "all fenders thereon shall at all times be in good working condition, and no car shall be used which, by reason of a flattened wheel, broken flange, loosened parts, or any other cause, makes, or is liable to make, cause, or produce unnecessary noise or annoyance upon the public street."

You propose to put that matter in the hands of the Commissioners, complaint being lodged, I suppose, by such passengers as may happen to be annoyed by what they shall think is unnecessary noise. Do you think that is workable?

Mr. HENDERSON. I will say in reply to that inquiry that already you have laws upon the statute books, in the charter of railroad companies here, that they shall place upon the lines first-class cars, with all modern improvements, for the convenience and comfort of their patrons.

Senator GALLINGER. Certainly.

Mr. HENDERSON. There is a charter to one of the other roads here which provides that the Commissioners shall exercise supervisory powers over the road, to see that the company keeps the road in good running condition.

I suppose, so far as flattened wheels are concerned, all of us perhaps at times have had that annoyance and inconvenience and discomfort as well as others. Perhaps in your home, if the cars pass there, where there is a flattened wheel the cars have a continual banging and banging upon your nerves all the time. I take it it is not to the interest, perhaps, of the railroad company to run cars that way, and ordinarily they will not do it; but why not have a provision of this sort, so that if there is a disposition to run cars of that character the impartial tribunal shall say it must be stopped?

Senator MALLORY. Allow me to call your attention to a point here. You propose to provide that—

No car shall be used which, by reason of a flattened wheel, broken flange, loosened parts, or any other cause, makes, or is liable to make, cause, or produce unnecessary noise or annoyance upon the public street.

Do you not think that that is rather impracticable?

Mr. HENDERSON. Yes; I think the best proof of that is the instance I have given.

Senator MALLORY. The bill says "is liable to make" some such noise. Who is to judge of that?

Mr. HENDERSON. Then strike out the word "liable."

Senator MALLORY. I only mention it because it strikes me that nothing of that character should be in the bill.

Mr. HENDERSON. That phraseology may be objectionable, but, of course, the spirit of it is that they shall not persistently run cars which are so much out of repair that the citizens will be disturbed to an unreasonable extent in the running of those cars.

Senator GALLINGER. Has there been any general complaint on that point from any source that you know?

Mr. HENDERSON. I can not answer that question.

Senator GALLINGER. This committee is, as you know, the vehicle for all sorts of complaints, and none such have come here, I will say.

Senator MALLORY. I spent three years in a front room at the National Hotel and it struck me that more noise was made there at the crossing of those tracks than by broken flanges or flattened wheels. That matter, I admit, is a nuisance, because late at night wherever those railroads cross each other there would be that disagreeable noise. But I do not know how that could be prevented.

Mr. HENDERSON. It seems that that is something which can not be avoided.

Senator MALLORY. But when you say "a flattened wheel, broken flange, loosened parts, or any other cause, makes, or is liable to make," a disturbing noise, it seems to me the only way by which you can regulate that would be to provide for an inspector of cars, just as they have on steam railroads, who will condemn a car upon inspection.

Mr. HENDERSON. I take it that this provision contemplates that.

Senator MALLORY. I do not think you can vest that in the Commissioners.

Mr. HENDERSON. Oh, if the attention of the Commissioners should be called to the fact that, as a rule, this thing did exist they would appoint one of their subordinates to inspect and make a report, and then the complaint would be remedied.

Senator GALLINGER. The trouble is that they have not a subordinate for that purpose and we would have to create an office, which we are not doing to any great extent this year. Indeed it would probably necessitate the creation of several offices.

Mr. HENDERSON. They have some very competent subordinates, Senator, and no doubt they could designate one to investigate and report. I do not imagine it would require an additional officer.

Senator GALLINGER. Would it not, as a matter of fact, take a dozen?

Mr. HENDERSON. No; I think not. I see no necessity for that.

Senator GALLINGER. We will pass that point. It simply troubled me a little as I read the bill, that is all.

Senator MALLORY. While on this point, I suppose you are willing to have a question asked for information.

Mr. HENDERSON. Certainly.

Senator MALLORY. In section 5 there is a provision that suburban lines coming into the city and intersecting with urban lines are required to run their cars in over the tracks of the urban roads.

Mr. HENDERSON. Yes, sir.

Senator MALLORY. And each urban road is required to permit that thing to be done.

Mr. HENDERSON. Yes, sir.

Senator MALLORY (reading):

In accordance with the provisions of section 5 of an act to authorize the Metropolitan Railroad Company to change its motive power—

and so on. I do not know anything about what that is.

Senator GALLINGER. It is simply that on some of those lines that are not paying lines, or supposed not to be paying lines, they are required to get 25 cents for four fares, and this section proposes to put them on the same basis as the other roads.

Senator MALLORY. Then the latter part of section 5 provides that—
“the compensation therefor and all matters relating thereto not heretofore provided for, in the event of said railroad companies being unable to agree between themselves, shall from time to time, on petition of any railroad company, be determined by the supreme court of said District.”

I should like to inquire if there is any precedent for any such proceeding as that.

Mr. HENDERSON. There are numerous acts relating to railroad companies here providing that one company may use the tracks of another company, and that if the two companies can not agree between themselves as to a fair compensation for that use, the matter shall be determined by the supreme court of the District of Columbia. There is not one law, but several acts.

Senator MALLORY. Do you know how that is done? Do you make the supreme court a court of arbitration?

Mr. HENDERSON. Well, I suppose that would practically be the effect of this provision if they could not agree among themselves.

Senator GALLINGER. That is where they run over a short distance?

Mr. HENDERSON. Yes; not any very great distance.

Senator GALLINGER. But a more important matter occurs to me, and I am glad the Senator from Florida asked the question. I may not grasp the purport of this provision, but would it not allow the Old Dominion Railroad Company, coming across the Aqueduct Bridge, to run all over the city without legislation? Would it not allow the road which is petitioning us to let it get across the Anacostia bridge, to proceed to traverse this city without legislation?

Mr. HENDERSON. I think, your honor, that while it is broad enough in its terms, it is to apply wherever those tracts intersect and connect with others, and it is necessary for them to get from that point to another point, to continue the line. Of course, you must prescribe by legislation what the route shall be, but they can use that portion of the track.

Senator GALLINGER. But we will take the Old Dominion Railroad Company as an illustration. That is a subject that very likely we shall

have to deal with in the near future. It crosses the Aqueduct Bridge. It has a legal right to do that. It is now asking to get to the Union Station. If we should enact this statute would not that railroad company have a right to come in and say "I propose to go over Mr. Dunlop's road to the Union Station; we do not want any other road; that is a pretty good road."

Mr. DUNLOP. Already laid.

Senator GALLINGER. "It is already laid, and we will go over that route. We will not ask Congress to charter us. We will not ask Congress to determine whether or not there ought to be a new railroad in the District of Columbia; we have one here, and we will go down to the Union Station." I may be wrong about that construction of it, but that is the way it impresses me.

Mr. HOOPER. The provision says:

"That every suburban street railroad in the District of Columbia whose tracks now intersect or connect with."

Senator GALLINGER. They will absolutely intersect when this road crosses the Aqueduct Bridge.

Mr. HENDERSON. It goes on further and says "or hereafter may be made to intersect or connect with."

Senator GALLINGER. We will pass from that point.

Senator MALLORY. There is one point as to this proceeding that I want to get at. I should like to know if there is any precedent for making the supreme court of the District of Columbia a committee of arbitration to settle the question of expense, or the value of the use of a road by another road.

Mr. HENDERSON. There is a precedent in the way of legislation requiring that to be done. There are numerous railroad acts requiring it.

Senator MALLORY. I can understand how a suit may be brought and determined by a judicial proceeding, but this does not seem to be that. It seems to be a provision that the supreme court of the District of Columbia is to practically act as an arbitrator and determine the question of fact. It is not a question of law at all.

Mr. HENDERSON. Mr. Lambert informs me that he has knowledge of one instance where the court has been called upon to pass on a provision similar to that.

Mr. LAMBERT. It was done under the act which is referred to in this proposed law, and grew out of the extension of the Ninth street line over from Ninth street to Florida avenue some years ago.

Senator MALLORY. Without knowing anything about the precedent, I am inclined to think that if the supreme court of the District of Columbia chooses to say "we will not do it, you can not make us do that duty," it has a right to say that.

Senator GALLINGER. There was provision for it in the case just referred to. It was required that if they could not agree either company should have the power to file a petition in the District supreme court and have the court act as you suggest, as an arbitrator, for the purpose of fixing the rates which should be charged for that reciprocal traffic arrangement. The provision was never carried through to a finality, but it was made use of as a medium of bringing the companies together at that time. The court in effect sits as a court of equity for the purpose of arbitrating difficulties.

Senator MALLORY. The point is not that it would not be a good

thing to do it; that is all right; but it is whether we can require the supreme court of the District of Columbia to perform that duty. You, gentlemen, have presented this bill and you say it has been carefully considered. Possibly that point has been met.

Senator GALLINGER. I am perfectly clear that in our legislation we have made that provision in former bills. I will ask General Harries if that is not the case?

General HARRIES. That clause has been in every charter for several years.

Senator GALLINGER. But the court has never been called upon?

General HARRIES. It has never been called upon.

Mr. DUNLOP. As a matter of fact, the court has never been called upon.

General HARRIES. The companies have always agreed.

Senator MALLORY. The bill here provides that the proceeding shall be by petition.

Mr. DUNLOP. By equity.

Mr. HENDERSON. Mr. Williams has just called my attention to the fact that in the case of the Alexandria and Mount Vernon Railway Company there was a dispute between that company and what I suppose was the Anacostia line or one of the lines—

Mr. WILLIAMS. The belt road.

Mr. HENDERSON. The belt road. There was a dispute between those companies as to the use of tracks.

Mr. WILLIAMS. As to change of motive power.

Mr. HENDERSON. As to change of motive power; and that case, Mr. Williams informs me—

Mr. WILLIAMS. Got into court.

Mr. HENDERSON. Yes; it got into court.

Senator GALLINGER. Mr. Henderson, it is almost half past 11, and there are a number of gentlemen to be heard.

Mr. HENDERSON. We have a number of delegates here. I do not know just how many desire to speak. We are also favored with the presence of a representation from the Business Men's Association of the District of Columbia. Mr. Coldren is a member of that association and of its committee on this subject, and we have Mr. Bulkley, who is secretary of the Business Men's Association. Perhaps those gentlemen would like to be heard, and there may be others.

Senator GALLINGER. I will consult with my associates. [A pause.] The best we can do is to give the representative of the Business Men's Association five minutes. Mr. Henderson has covered the ground pretty well. Then we shall have to hear from the other side.

STATEMENT OF F. G. COLDREN, REPRESENTING THE BUSINESS MEN'S ASSOCIATION.

Mr. COLDREN. Mr. Chairman and gentlemen, there are three ways of providing for the control of street-railroad companies. One way is to leave the control absolutely to the companies themselves. This way has been tried for a long period in this District. As a whole I think it works pretty well as compared with the service in other cities. I am frank to say that.

I do say, however, that in some respects it is radically defective; that on certain lines here that we can mention—on the Brightwood

line, particularly, during the last six months and the last year, in fact, on the City and Suburban line, on the Eckington line, the North Capitol street line, and on the Columbia Railroad line—the present management is defective, in the judgment of the citizens here.

We have had a large quantity of evidence presented to us from perfectly reliable business men—not cranks, not people who are chronic kickers on all conditions, but men who are very sensible business men and take practical views of things—that there is a very decided overcrowding of cars at certain hours of the day; that there is defective service on the Columbia Railroad line as to moving those cars; that they run one-third closed and two-thirds open cars during the winter months, and that in various other respects there was defect in the service, particularly as to the want of a transfer station or a protection for passengers at the south end of the Brightwood line where it connects with the Ninth street line. Those are specific instances on which any quantity of evidence can be presented to your committee as to the conditions and the complaints. Therefore it seems to us that in some respects the management of the roads, the absolute independent control of the roads by the companies themselves, is not satisfactory and does not fulfill all the demands of the citizens.

Another method is to leave all matters of the control of the roads to Congress. We are heartily of the opinion that on all general questions Congress is amply able to deal with them, and has dealt with them in a most satisfactory manner in granting these charters. It seems to us, however, that in the matter of the control of these roads it is impracticable for the committees of Congress and the two Houses of Congress to legislate as to the number of minutes apart that the street cars shall run on particular lines, the precise points where transfer stations must be located, the particulars as to the size and character of those transfer stations, as to the question of the repair of the cars, when cars are out of repair, when they are too noisy for the comfort of the citizens, etc.

It appears to us that it is impracticable to expect the committees of Congress to handle these things satisfactorily at all times. If the committees of Congress should report a bill and if Congress should pass a bill which would be satisfactory on the question of schedules this winter or spring, there would necessarily be changes next winter. There might be a demand for changes before Congress would meet again next December. Certain sections of this city, the North Columbia Heights and the Bloomingdale sections, have built up so rapidly within the last two years that there has been a demand for changes in the schedules there not less than six months apart and a decided increase of schedules.

It seems to us that it is necessary to have some judicial authority, combining both judicial and executive powers, outside of Congress, which shall pass upon these questions, upon the differences that arise between the citizens and the railroad companies. We would, I think, be entirely willing to have it left to a railroad commission, a railroad commissioner, perhaps. We believe that two or three men would be better than one in dealing with these questions. If there were a railroad commission, and it ought to be composed of more than one man, that would cost something, and under present conditions it seems to be probably impracticable to have a railroad commission in this District. I understand that a railroad commission or

commissioner was formerly recommended by one of the Commissioners of this District, and I think he is present now. He was one of the former Commissioners.

It appears to us that the Commissioners of the District are able to handle this matter. They can do it through inspectors and through the police force, possibly. It is probable, however, that there would be two or three inspectors appointed especially for this purpose. The course the Commissioners would pursue would be, presumably, when complaints are made, to send inspectors to investigate carefully and to make a report to them as to the precise facts. They would then publicly send to the railroad companies and to the citizens complaining and have an open hearing on the question.

Senator GALLINGER. Can you give the committee, as a matter of information, any facts relating to street railroads in other cities as regards the matter of schedule time? Who controls it?

Mr. COLDREN. The laws regulating it?

Senator GALLINGER. Yes. For instance, take Boston or New York.

Mr. COLDREN. I have here the Massachusetts law.

Senator GALLINGER. As to street railroads?

Mr. COLDREN. Yes, sir. Section 69, chapter 112, Revised Laws of Massachusetts, page 1058:

"SEC. 69. Every street railway company shall furnish reasonable accommodations for the conveyance of passengers, and for every willful neglect to provide such accommodations shall forfeit not less than five nor more than twenty dollars.

"SEC. 70. If, in the opinion of the board (of aldermen)"—

That is, of each municipality where the street railroads are located—

"If, in the opinion of the board (of aldermen), additional accommodations for the traveling public are required upon any street railway, it may, after due notice to the company and a hearing, make an order requiring such additional accommodations to be provided as it determines are just, and may alter, renew, or revoke the order. A street railroad company which for more than one week after receiving notice in writing of such order neglects to comply therewith shall forfeit to the use of the city or town for which such additional accommodations are ordered one hundred dollars for each day thereafter during which such delay continues."

Senator GALLINGER. What about Baltimore, New York, and Philadelphia? Can you give us some information on this point in regard to those cities?

Mr. COLDREN. I have here, I think, the Pennsylvania law. I do not know as to Baltimore. I have not investigated that.

Senator GALLINGER. If you find anything on that point, you may put it in your statement. We will not delay you.

Mr. COLDREN. I have here the Michigan law, which contains a somewhat similar provision.

Senator HANSBROUGH. You will find that to be generally the case in all large cities, I think.

Mr. COLDREN. That is my impression. I inspected the New York law, which is very strict indeed. It gives to a board which has control of the street railroads in New York City most ample powers as to providing for schedules, etc.

Senator GALLINGER. Now, as to the overcrowding of cars, which is a pretty serious matter. The citizens of the District are very anxious

to have extensions of roads into suburban localities where there are not people enough to warrant the frequent running of cars at all hours of the day. I take it your complaint is that the companies ought at certain hours of the day to put on more cars. Is that it? Those roads, I will add, are not, I presume, paying dividends, and in some instances they are not paying running expenses at the present time. I assume that that is true.

Mr. COLDREN. Precisely; we understand that to be the case. However, on that point we wish to say that the general corporation which controls those suburban roads now purchased those roads or secured the control of those roads at a time when they had ample facilities and knew precisely what the financial situation was and what the prospect was for those roads.

Senator GALLINGER. But the same complaint was made against them when they were run as independent roads, as I recall it.

Mr. COLDREN. That may be; it is quite possible. We take it, however, that if the general corporation has seen fit to acquire control of those roads, presumably with a view to what the conditions will be five, ten, or fifteen years from now, when they will be undoubtedly paying roads, the citizens of the District should not be compelled to suffer because temporarily that particular section of the roads they are controlling does not happen to pay dividends.

Senator GALLINGER. We shall now have to hear from the other side.

Mr. HOOPER. Mr. Chairman, will you be so kind as to allow me about two minutes?

Senator GALLINGER. We shall be pleased to do so.

STATEMENT OF L. L. HOOPER, REPRESENTING THE NORTHWEST SUBURBAN CITIZENS' ASSOCIATION.

Mr. HOOPER. Mr. Chairman, I live along the line of the Tennallytown Railroad, and I wish to speak particularly of that. That line was built some eight or ten years ago under a provision like all these roads that the schedule should be such as to meet the convenience of the public. At the present time that railroad runs its cars during the daytime in the morning and evening every half hour. That means that we have to go out and wait on the corner in the cold of winter or in the heat of summer for half an hour. Is that for the comfort and convenience of the patrons?

The charter was in the nature of a contract between the railroad company and the people. The railroad company have not lived up to that contract and there is no way by which we can force them to do it. If there is an objection to the Commissioners having this power, we do not care if you can devise some way by which we can compel the railroad company to give us reasonable service. We want to have cars that will run at least once in a quarter of an hour.

I wish to call your attention, with your permission, to the difference between the running of that line and another line just a mile east of it and which has nowhere near so large a patronage, namely, the line run by the Capital Traction, which runs cars every fifteen minutes and gives an entirely good service morning, afternoon, and night. On our line during the daytime, from 9 o'clock until half past 3 in the afternoon, the cars run every half hour. During a part of the day they

run every twenty minutes, and during the rest of the time every fifteen minutes.

It seems to us, considering the large amount of business there is there, we ought to have a better schedule, but there is no way by which we can force the railroad company to run cars oftener than every half hour. They used to run their cars every quarter of an hour. They did that when it was an independent road. If there is any possible way by which they can be compelled to do that in the wisdom of the committee, we hope you will do it.

We have heard one suggestion, that power be given to the Commissioners. We do feel that we are not treated fairly in the suburbs. We have the best region around Washington for suburban homes, but we can not get people to come out there because the car system is so bad. We appeal to you to give us a good service out there, and, with any way by which the railroad company shall be compelled to do that, we shall be satisfied. We have simply made one suggestion. The bill contains a large number of provisions, some relating to the matter of heating, some relating to the matter of the weight of cars, but we do want to have our cars run in this city the way they are run in other cities.

Senator MALLORY. I notice the bill proposes to repeal the provision which requires the company to sell four coupon tickets for 25 cents for a continuous trip over either of the roads and the Metropolitan Railroad.

Mr. HOOPER. If I may be allowed to explain that, when the provision was carried through for changing the power on the F street line there was a provision requiring a free-transfer arrangement with Georgetown and Tennallytown and on the Chevy Chase road. Then, as I have heard, they got together and said they could not afford to do that, and they got a provision put in allowing them to sell four tickets for a quarter, and at the present time it is in operation between Georgetown and Tennallytown. There is a transfer arrangement at Georgetown between the Tennallytown road and the F street line.

Senator GALLINGER. Is the Tennallytown road owned by the Capital Traction Company?

Mr. HOOPER. No, sir; it is a part of the Washington and Electric.

Senator GALLINGER. There are two roads that run out there?

Mr. HOOPER. Yes, sir. The other road is run by the Capital Traction, and that is a very satisfactory road.

Senator GALLINGER. Do I understand you to say that a branch of the Washington and Electric road runs parallel to the Tennallytown road?

Mr. HOOPER. No; the two roads run about a mile apart. This road runs 4 miles, and during the whole of that distance they run cars only once in half an hour.

Senator GALLINGER. But you made a comparison as between that road and some other road. To what road did you refer?

Mr. HOOPER. One is the road running to Chevy Chase. That runs a car every fifteen minutes from 7.30 in the morning. We want our road to run cars the same as that road, every fifteen minutes from 7.30 in the morning.

Mr. HENDERSON. Mr. Lambert asks the privilege of speaking for two minutes either now or later.

Senator GALLINGER. We have twenty-one minutes left and we have given you gentlemen over an hour.

Mr. McLAUGHLIN. Mr. Chairman, I ask for one minute.

Senator GALLINGER. Very well, proceed.

STATEMENT OF A. E. McLAUGHLIN.

Mr. McLAUGHLIN. We have here the sworn reports of the Brightwood Railway line and we see that the passenger traffic for the year 1902 was over 395,000 passengers. The road has neglected to make adequate provision to accommodate the increase in passenger traffic. We submitted our bill—House bill 7952—to the House Committee on the District of Columbia, Fifty-seventh Congress, and the officials of the road immediately appealed to the Commissioners. They selected their arena and the Commissioners were called upon to decide these questions. It takes a great deal of time and that is the reason why we made up our minds that we would agree to take the present bill which is under discussion.

We know that the officials of this railway company claim that 1902 was a very bad year and that there would be no increase in passenger traffic for the year 1903, but when we get their report we find that there is an increase in the passenger traffic in that calendar year of over 4,500 per month.

Now, that is the reason why we petition this committee and the committee at the other end of the Capitol for this legislation.

STATEMENT OF GEORGE T. DUNLOP, PRESIDENT CAPITAL TRACTION COMPANY.

Senator GALLINGER. We will now hear Mr. Dunlop, or General Harries, but we shall be compelled to get through in twenty minutes.

Mr. DUNLOP. Mr. Chairman, I shall be as brief as possible.

I think the last speaker has helped General Harries's cause very much. He says the traffic is increasing and in a few years we shall have a millenium in the street-railway business, and there will be no further need for legislation on the subject. The number of passengers always settles that question, I think. The number of cars is settled by the number of passengers and the receipts.

I do not know that I care to say very much on the subject. Our road has been chartered for forty-two years. I have personally been in the management of it for about twenty years. We have endeavored to give a good, satisfactory service to the public. We have never been hauled up by Congress—if I may use that expression—and compelled to do anything. We exhausted horse power to accommodate the public, and voluntarily put in the cable line at an expense of about \$4,000,000. That was obsolete in a few years, and by virtue of a fire we were compelled to change to electric. Since then we have been adding to our equipment every year, and we believe that we give as good a service as is given on any street railway in the United States. It is our duty to do that. We recognize that duty, and we endeavor in every way to do it.

Now, I want to take up this matter of heating cars for just a minute. Our company is fully equipped with both open and closed cars for winter and summer. It is fully equipped for a full service. When

the weather is inclement we run all closed cars. That is done by a superintendent stationed at each end of the line, at the barns. Under this bill we would have to apply to the Commissioners when we should put an open car or a closed car on the street, or whether we should have heat in a car or it should not be heated. We have known the thermometer in January to be up to 70, and that provision would compel us to run the cars heated at such a time. In the winter of 1890 and 1891 the thermometer never went below the freezing point in the District of Columbia. That is a matter of record at the Weather Bureau. Do you say that there should be run in such weather as that cars heated up to 50 or 60 degrees? Every window in the cars was wide open.

There is a closed car at all times, except in midsummer, on our road, either as a trailer or a motor car. The motor car is heated from the 1st of November to the 1st of April. The heaters are set by the superintendents at the end of the line, and the conductors and trainmen are not allowed to move the heater or regulate it at all. It is set to heat the car at a certain temperature and it runs that way. No one is allowed by the rules to change it. Our direction is to have the transoms set so as to ventilate the cars. A passenger will get in when the transom is open and complain that they are taking cold and it must be closed. Our men are instructed not to contend with them. If they demand it they close it. The next passenger gets in, probably the next square or in a square or two farther on, and says, "this car is too hot and you must have these transoms opened." Our instruction is to open the transom, to please them all. They work that way all the time. This goes on every day.

Every train that we run has a heated car in it and a car that is not heated. I can safely assert here, and I do not believe it will be contradicted, that more passengers in the District object to the cars being heated than those who want them heated. We get the information at the office. Complaints are coming in constantly that the cars are being overheated or that they are heated at all. You see we are between the devil and the deep sea, but there we are.

Senator MALLORY. Let me ask you a question, Mr. Dunlop: What difference do you make in the crowded hours of the day, those hours when experience teaches you there will be most travel?

Mr. DUNLOP. I am much obliged to you for calling my attention to that question. It leads up to a very serious point which I wish to state to you, Senators, while I have the opportunity.

We run a three-minute schedule for twenty hours on our whole system, except the country lines, and that I will come to later on. Morning and evening on the Fourteenth street line we run a one-minute service. That is more than we can shift. It takes a minute and a half to break the trains up at the Mount Pleasant end and reverse them. But in the hours they run a one-minute service—the office hours—we run an intermediate car between each of those trains out of the barn. We have it ready to run out. When it comes back we run it in the barn and get it out of the way. We can not shift the cars faster than a car in one and a half minutes. That is because we can not switch in less time on Fourteenth street. Fourteenth street should be open to the District line. Our charter gives us a right to go there, and we are anxious to build up to that line.

We have reached the maximum of accommodation on the Fourteenth

street line. It is overcrowded, we know it, but we can not do otherwise than we are doing. We are running cars to the Peace Monument and turning them around there.

Senator MALLORY. Do you run minute cars in the afternoon from 4 o'clock?

Mr. DUNLOP. I was coming to that. In the morning we try to obviate that as far as we can. We start cars down at the Seventh street barn and run up to the avenue and shift them on the avenue, and carry them out Fourteenth street and out to the Rock Creek road. We do that to accommodate the lower end of Fourteenth street, from U street down to the Treasury Department.

Those cars are taken from Seventh street, via Seventh street to Pennsylvania avenue, to Fourteenth street, and out Fourteenth street to the loop at Rock Creek, so as to get them around that loop and back again. That is done morning and evening in office hours, and reduces the service on Fourteenth street, from Fourteenth street and U street to the Treasury, to three-quarters of a minute trains. It is impossible for us to give any better service on Fourteenth street now.

Senator MALLORY. The bulk of your traffic is between Fifteenth street junction and U street, is it not?

Mr. DUNLOP. No; when we come down in the morning from Mount Pleasant and Columbia Heights the cars are practically loaded before they get to U street. Then the people there would either have to take the Seventh street cars all the way around or walk down Fourteenth street; but we are running during that hour, from Rock Creek bridge, via U street, down Fourteenth street, additional cars to take care of this traffic.

I will ask the gentlemen of this committee to bear in mind that our company has now exhausted its ability to accommodate the passengers on Fourteenth street. There is no way to do that except to extend the line so that we can make a route out Fourteenth into the country. Then we can put on as many cars as the police department will allow us to run. They will not allow the cars to run within 100 feet of each other. We are violating that law or that police regulation now from Seventh street to Fifteenth street both morning and evening. The cars run within 100 feet, and they are loaded down to 6 o'clock in the evening with three-quarter minute cars, and there is only a quarter of a minute, including Avenue and Fourteenth street cars. That is the record. If you will stand at Fifteenth street you will see it.

Senator MALLORY. I understand your opinion is that under present conditions you can not make any improvement in the situation in the crowded condition of the cars in the afternoon?

Mr. DUNLOP. On Fourteenth street?

Senator MALLORY. On Fourteenth street.

Mr. DUNLOP. There is no necessity to make it on any other part of the line. We have a loop, and run the cars as fast as they can get around. But there is where we have a stub end, and it is the only one we have. I wish to state that some years ago we went before the Commissioners and asked for authority to put in a loop. We practically bought the land (we did buy it and made a payment on it) to make a loop right opposite our barns, at Fourteenth and Kenyon streets. We ran across private property, for which we were to pay \$32,000. The citizens on that one square were allowed to prevent that by complaining of our putting that loop in.

Senator GALLINGER. I wish to ask one question. It is foreign to this bill, and yet it is a matter that I have thought I should like a little information on. When I go to other cities I pay a nickel for a passage and here I get 6 tickets for a quarter, the law requiring the roads to sell tickets at that rate. Can you tell me how much it saves to the citizens of this District by that provision in our legislation by which you are compelled to sell 6 tickets for 25 cents?

Mr. DUNLOP. Each individual saves about 16 to 18 per cent.

Senator GALLINGER. Have you ever figured the aggregate saving to the District on your lines because of that statutory requirement?

Mr. DUNLOP. In our company it would amount to about \$180,000 a year. By referring to the report of the year 1903, we find the actual figures show over \$213,000.

Mr. HILL (addressing the chairman). Did you ever go to Richmond, where two fares are given for 5 cents between 6 in the morning and 6 p. m.?

Senator GALLINGER. I have been in Richmond.

Mr. DUNLOP. I should like to answer that question. It is the between hours he is getting at. That is the cream of the whole business. That answers that question.

Those gentlemen who have purchased land in the suburbs are very anxious to have it improved at the expense of people who put their money in these utility companies. In the same way they complain of the District government. They ask to have a water main run out, and when the bill is presented to them for half the cost they kick the same way; and so with the gas company. They want all for nothing. Gentlemen, we might as well just be plain about this matter. They have land in market, and they want these railways and other utility companies to pay for making it more valuable. That is all.

Mr. HENDERSON. Mr. Chairman——

Senator GALLINGER. We shall have to hear General Harries. We have only six or seven minutes left, and we have given the friends of the measure about two-thirds of the time this morning.

Mr. DUNLOP. I wish to say one word, with General Harries's consent. Something was said about the Chevy Chase line and on the point of transfer stations. There we break the line. We run the Seventh street line on a three-minute schedule regularly during twenty hours and a minute and a half at the office hours morning and evening. It would be very unreasonable to say that we should run those cars on that schedule five miles farther out in the country. We do run on the Chevy Chase line throughout the whole year twenty hours a day on a fifteen-minute schedule, and in the summer months, beginning with April, we give a seven and a half minute schedule after 7.30 a. m. In the afternoon we give a three-minute schedule on a 5-mile country road, and it takes from \$11,000 (which has been the lowest in a given year) to \$50,000, over and above the receipts, to run that road, with nothing taken out for dividends or interest on bonds.

**STATEMENT OF GEN. GEORGE H. HARRIES, VICE-PRESIDENT OF
THE WASHINGTON RAILWAY AND ELECTRIC COMPANY.**

General HARRIES. Mr. Chairman, it would be practically impossible, as all must appreciate, to make anything like an argument on the bill within the limited time allowed.

Senator GALLINGER. We will extend the time a little, if my associates will sit until ten minutes after 12.

General HARRIES. May I just take up the bill and go over its provisions as briefly as possible?

Senator GALLINGER. I wish you would do that.

General HARRIES. The first proviso relative to the weight of the cars troubles me, because I can not find anywhere, either in the Commissioners' office or anywhere else, a reason for establishing 10 tons as the weight of a car. I have been asked the question by a good many railroad men out of town as to where the 10-ton proposition came from, but nobody seems to be able to say.

The weight of cars in other cities is in excess of 10 tons right straight along, everywhere. I have not heard of a single instance where the weight was confined to 10 tons.

Senator MALLORY. What is the weight of the big cars on G street, that run out into the country?

General HARRIES. The Maryland cars?

Senator MALLORY. Yes, sir.

General HARRIES. Thirty-two thousand pounds—16 tons. The standard car that runs out from the Capitol grounds and up to Mount Pleasant is 27,000 pounds, and that is a larger car than the car operated on most lines.

Senator HANSBROUGH. That is the car which comes up here to the Capitol?

General HARRIES. Yes, sir; I can not understand why 10 tons should have been worked out as a standard.

Senator GALLINGER. I understood you to say in a hearing before us that the weight of the cars that run to Mount Pleasant is something in excess of 8 tons.

General HARRIES. Oh, no.

Senator GALLINGER. Between 8 and 9 tons?

General HARRIES. The F street motor car weighs 8 tons.

Senator Gallinger. The cars that run to Mount Pleasant weigh over 10 tons?

General HARRIES. They weigh 27,000 pounds. The larger cars which were voluntarily taken off by the company weighed nearly 32,000 pounds.

The question in that same section as to the construction, purchase, or leasing of cars without the approval of the Commissioners is a very interesting one. It will be very clear to the committee, I am sure, that the car approved by the Commissioners as the Commissioners are to-day may be altogether out of favor with the Commissioners as they may be the day after to-morrow. The Commissioners have no tenure on life and they are liable to change. There could not be any continuing authority. There could be no one line of thought on the subject of car designs or weights. So it seems to me that is a matter which the Commissioners could not possibly deal with in fairness to the companies.

The impossibility of section 2 must surely be evident to anyone who will sit down and study it out with some care, and impartially. A schedule should not be made for suburban lines similar to the schedule of the Capital Traction Company, because the close headway on the lines of that company is the result of years of success and years of fair profit. The schedules upon other lines must be extremely flexible

to meet conditions. It is not possible for us to run, except on two or three of the main divisions, such close schedules as are run by Mr. Dunlop. The financial condition will not permit anything of the kind, nor does the passenger traffic demand an increase on our main lines. A schedule that is good for to-day may be absolutely useless a week from now.

While we try to preserve a reasonably fixed hour or half-hour or quarter-hour schedule, as it may be, in the operation of suburban lines, there continually comes a demand for more cars at certain times, changing from day to day. So it will be utterly impossible to place this matter before the Commissioners and secure any action within a reasonable time. To give the Commissioners power as to schedules and routes and destination of cars and transfer points would be to turn over the entire operating department to the Commissioners.

We know perfectly well that this can not be done by the Commissioners. They may be desirous of having more power, and we all appreciate that it naturally belongs to a man who has an office to always want more. He wants more responsibility, more authority, and more assistance, and, in a little while, more salary as a necessary sequence. The Commissioners have all they can do now, and I do not know but that at times it occurs to some of us that they have more than they can do and do well. If this bill should ever become a law they would necessarily create a department of railroads, a bureau of railroads, with a chief and his assistants and a large corps of inspectors. They would have to keep probably as many as forty or fifty inspectors doing what an advocate of this measure this morning suggested might be done by one inspector.

Mr. DUNLOP. We have an inspector at the end of every line at all hours when the cars are operating.

General HARRIES. You will have a large machine there and you will have at the head of it a chief. That man would probably get \$2,500 or \$3,000 a year. If he was worth his salt as a railroad man he could get three times as much anywhere else with no trouble at all. So, you would put the operation of this provision into the hands of a practically incompetent subordinate, because the Commissioners can not deal with it. They can not have hearings ten times a day. They can not continually be called up by the city solicitor and by citizens to deliver opinions as to any imaginary violation of law. They can not be continually in court to answer any question which might come up. That is an utterly impossible proposition.

The only solution of the whole situation would be for the Congress of the United States to acquire this property and turn it over to the Commissioners or a commission or anything else you please for operation.

You may set it down as a well-founded principle from which there may not be rational departure that you can not have municipal control without municipal ownership. Any half-and-half proposition is going to fail. The indeterminate man does not amount to anything. The hybrid cuts no figure in our citizenship. You can not please everybody.

Senator MALLORY. Let me ask you a question that is more practical. Is there any complaint that your road is overcrowded at certain hours, or is that complaint made as to other lines?

General HARRIES. Yes, sir.

Senator MALLORY. What do you say about that?

Senator GALLINGER. It applies, as a general rule, to your road much more than to Mr. Dunlop's?

General HARRIES. Much more than to Mr. Dunlop's. It has been unfair to ask Mr. Dunlop many of these questions, because he has not this condition.

Senator MALLORY. You can not run the same schedule as that on the Fourteenth street line?

General HARRIES. We are going to operate the Eleventh street extension, and if Mr. Dunlop will permit a suggestion—

Mr. DUNLOP. If you build that Eleventh street line it will only take those who are now walking.

Senator MALLORY. The matter of overcrowding is the most important question involved in this bill.

General HARRIES. I wish to say that it is a very important question and that we have tried—and tried very persistently and with a large measure of success—to meet it. Most of you are acquainted with the history of the combination of these roads. Most of you know that two paying properties took upon themselves, with a view of building ultimately a system, all the burdens of eleven bankrupt companies that had never paid a dollar to anybody. Out of the whole thing we are trying to make a system, and we have, I feel perfectly sure, succeeded beyond the expectations of any of those who were in the original organization. We moved ahead much faster than it was believed possible. We are ahead to-day of our estimate in the doing of the things we want to do. Whenever it is possible, so far as our facilities will permit, we do try to reach the crowd during the busy hours. On the City and Suburban Line so many efforts have been made that that road has achieved a receivership and is being operated by the court. We have no control of the schedule. We have enough to do, and we simply can not spend any more money on it.

Senator MALLORY. Where does that line go?

General HARRIES. It is the line that runs from Fifteenth and G out to Thirteenth and D and to Brookland, and through Eckington out into Maryland.

Senator GALLINGER. You say that that road is now operated by the court?

General HARRIES. Yes, sir; it is in the hands of a receiver and has been for a year and a half. The Brightwood Company is the other line that seems to have more trouble than any other. Let me read this statement, made by the president of our company, Mr. McDermott, to a conference composed mainly of people who are interested in Brightwood real estate:

"The Brightwood Railway Company was chartered in 1888, and was to complete its road from 'Boundary street to the District line in two years and to Brightwood in one year.' Four years later the Commissioners of the District submitted a communication to Congress, accompanying it with a letter from the Citizens' Association of Brightwood Avenue, in which I find the following statements:

"First. The cars are old, rickety, and dirty, and at times unfit for ladies and gentlemen to ride in. The cars are very seldom on the track 1 mile of its distance. During and after every snowstorm traffic is suspended because snowplows are not sent out for twenty-four, forty-eight, or sixty hours thereafter. The passengers are

required very often to get out and readjust the cars on the track or stand in the mud and slush until it is done.

"Second. That the company had not kept a single term of its charter."

"The railway company answered that it had 'expended more than \$150,000' and had 'done all that anyone could have done,' and that the road had been for two years operated by the Metropolitan Railroad Company, that company paying \$635 a year for the valuable privilege.

"In 1893 the company reported to Congress that it had paid \$108,500 for a compressed-air system, adding, rather sententiously: 'The said system proved a failure.'

"In 1894 the company reported that it had completed its lines, that its capital stock issued amounted to \$108,000, and its bonded debt was \$350,000. It reported its gross receipts at \$36,907.45 and its expenses at \$47,868.09, showing a deficiency of over \$10,000, without providing for interest on its debt. This was for 1893.

"In 1895 the company reported, for the year 1894, that its receipts were \$51,040.60 and its disbursements for operation \$67,642.84—a loss of over \$16,000, besides interest charges.

"In 1896 the report to Congress showed, for the year 1895, disbursements to have been \$59,582.65 and receipts \$51,136.95—a loss of over \$8,000, besides interest charges.

"In 1898 the report to Congress for 1897 showed that the company had contracted floating debt amounting to \$74,783.40; that its total payments for the year amounted to \$151,630.79 and its receipts to \$51,080.40. The floating debt was contracted to meet interest on funded debt.

"In 1898 the cost of operation was \$47,564.91 and the receipts were \$55,935. At the close of this year the accounts payable were \$66,342 and the floating debt had increased to \$84,804.

"On October 18, 1898, the treasurer reported that there was (I quote from the minute book) 'no money in the treasury to pay coupons upon the second or general mortgage bonds, and that the company owed a floating debt of \$56,800, and also the interest on the second and general mortgage bonds, amounting to about \$30,000.'"

You see, this road had been constructed and reconstructed away out in the country, far beyond the necessities of the public, with the thought that a railroad might build up something.

"Up to this time the fare charged for carriage and transfer over the lines of the Metropolitan Company was the same as is now charged when transfer is made over the lines of the Capital Traction Company, being four tickets for a quarter.

"In 1899 the Washington Traction and Electric Company acquired the stock of the Brightwood Railway Company, and, through the reorganization of the first-named company, the control passed to the Washington Railway and Electric Company. The fare was reduced so that six tickets are sold for a quarter, giving transfer rights over the lines of the Metropolitan Company, and enabling Brightwood residents to ride over 13 miles for 4¢ cents. It was not sound financial policy to make this reduction, but it is the desire of a majority of the directors to continue it so long as it can be done without too great a burden upon the owners of the property.

"From July 31, 1899, to December 31, 1903, we paid for new construction on the Brightwood road the sum of \$140,312."

Because the road was all rebuilt.

"During that period the cost of operation and interest charges exceeded the receipts by the sum of \$134,987.

"As the owner of the stock of the Brightwood Railway Company, the Washington Railway and Electric Company recognizes that it must for several years meet a deficit in the operation of the Brightwood Railway Company, and this loss is charged off in our statements to the holders of the Washington Railway and Electric Company's securities."

Which, by the way, have never had any recognition from our treasurer's office at all. We have not paid a dividend on any of them.

"The only way in which this loss can be reduced, except through increase in travel, is to return to the right to charge twenty-five cents for four tickets."

That right still exists.

"We prefer to continue the present plan if the earnings of the road show, as I believe they will, an annual decrease in the deficit. The annual loss is not very large, but it is nevertheless a loss that is paid by the stockholders of the Washington company. My personal view is and has been in favor of maintaining the lower rate of fare, but it is proper to say that the management of the Washington Railway and Electric Company is not at one on this question, and it is not easy to convince that a loss should be incurred in the management of any property where it can be avoided by the charging of higher rates."

Now, that is the situation of the Brightwood road to-day. So you readily understand that an attempt to go beyond our present efforts would simply be to create a further tax, laying it upon the owners of the stock of the controlling company, who themselves have not received 1 cent in dividends and are not likely to receive any for several months to come.

Senator MALLORY. Do I understand that you have not paid any interest at all during this time?

General HARRIES. No, sir.

Mr. McLAUGHLIN. In regard to the interest being paid on the company's debt—

General HARRIES. No; only on the original construction.

Mr. McLAUGHLIN. What is the amount?

General HARRIES. One hundred thousand dollars.

Mr. McLAUGHLIN. At what rate of interest?

General HARRIES. At 5 per cent.

Mr. McLAUGHLIN. I was under the impression that your report showed that you had paid \$32,000 interest for the year 1903. Is not that correct?

General HARRIES. No; we have not paid all the interest. We have that floating debt yet. You know that is not touched.

Mr. McLAUGHLIN. Now, tell us, General Harries, the interest paid by this company for the year 1903, as your report shows.

General HARRIES. I have a statement here which shows it absolutely. It is all printed and before the public.

Senator GALLINGER. Proceed, General Harries.

General HARRIES. Now, going from that for a minute, I wish to say that section 3, to which attention has been called, is not a fair section at all. We do not run cars with flattened wheels or broken flanges.

Mr. WILLIAMS. I came down yesterday on a car that had one.

General HARRIES. I have no doubt that will occur on a wet, greasy morning when the leaves are on the track or where there is slippery mud. You are bound to slide, and you are bound to have flat wheels. But we take them off; the cars are hauled in on that first trip whenever possible.

Mr. HILL. The only way I could get them in was to write to the police. There was sickness in my house, and the pounding of the wheels on the Tennallytown road was so great that I called attention to it.

General HARRIES. On a road with grades you are bound to have flat wheels. Any railroad man knows that. The idea of putting it in the power of any two citizens to come up with a statement that a flat wheel is running on F street or Pennsylvania avenue at half past 2 o'clock, and on that statement dragging the officers before the police court is absurd. The company is not going to injure its tracks in that way. No injury to the rail is greater than the injury caused by flat wheels and broken flanges.

Mr. HILL. Then you will not be amenable.

General HARRIES. Our own interests compel us to take off such wheels. We will not let them run. It would be foolish to allow flat wheels to be run.

Mr. HILL. They exist a great deal more in the suburbs than in the city for the reason you state, on account of the grade?

General HARRIES. And on account of leaves falling on the track.

Mr. HILL. But on those cars they are not taken off?

General HARRIES. You would better kill the vegetation. I think that is the easy way out of it. Just ask Congress to legislate that the trees shall not bear any leaves.

As to the heating proposition, that has been thoroughly gone over. There is no question about that.

Mr. Hooper objects to having to stand on a corner. We have a waiting room on the corner.

Mr. HOOPER. It is very damp.

General HARRIES. It is a warm room. I was there yesterday.

Mr. HILL. Then heat was put in yesterday.

General HARRIES. It was comfortable yesterday.

What I want to say is, if the Commissioners are empowered to put these waiting rooms at all transfer points and termini, we have transfer points and termini enough to make it very interesting. We have 28 termini, and we have 33 transfer points. We have 37 waiting stations already in existence and a good deal of room alongside the track for a still larger number. I mention the number of existing stations to show you that we have not been altogether inconsiderate.

Wherever five or six suburbanites gather together they want a waiting station and insist that the railroad company should invest more money in a railroad station than they, as passengers, contribute in fares in six months. There is no doubt about the desire of the suburbanite for "the earth and the fullness thereof." He wants to live where land is cheap and where frame houses are possible. He gets outside of the fire limits where vegetables are delivered to his door for less money than he would pay in market, and then he wants a Pennsylvania avenue or F street car service. I don't blame him for reaching out. He is entitled to all he can honestly get. But he must not be encouraged

by the authorities to take anything that belongs specifically to some one else.

Now, the question of through traffic—of running in the city to the business center—has been tried. We tried that on the Tennallytown line, and, by the way, the Tennallytown line has a very good service. The cars run as closely to schedule as they possibly could on any suburban road. Anyone who lives there and has any acquaintance with the road knows just about when to find a car. There is no doubt about that.

Senator GALLINGER. What about the frequency of those cars? Is it possible to run them more frequently? Are serious complaints made on that point?

General HARRIES. The crowded condition is only in the busy hours, and that is the case in every city in the United States. On every suburban line in the United States at those hours, the busy hours, that condition exists.

Senator GALLINGER. It is the case on both the surface and the elevated roads in New York, I know.

General HARRIES. It is so everywhere, on every road in every city and on every road running out in the country. Everybody wants to go to work at one time, and everybody comes away at one time. Everybody goes to the theater at one time and everybody starts home from the theater at one time.

Mr. HILL. That is no argument.

General HARRIES. May I say here that the bill has been framed by these gentlemen and their attorneys without any reference whatever to us? We have had no opportunity to be heard, and there was no discussion of it. The Commissioners themselves had a hearing on the bill for the friends of the measure, and we were not heard at all. We were not called upon for figures or facts.

Mr. HENDERSON. You had the opportunity of a public hearing.

Mr. DUNLOP. No invitation was sent to us.

Senator MALLORY. What were you going to say about the Tennallytown service?

General HARRIES. About the Tennallytown service, the total expenses and fixed charges for the past year amounted to \$50,550, and the deficit for the year was \$12,876. That deficit was carried by the Washington Railway and Electric Company.

Senator MALLORY. If you ran more frequent cars would the deficit increase?

General HARRIES. It would increase the operating expenses.

Senator Gallinger is, I think, perfectly right about the power conferred by section 5. Any road that desires to come in need not ask for special legislation. If it is in the District of Columbia it can come and wander over all the lines without any doubt under section 5. Section 7 is, of course, a very undesirable section.

Senator MALLORY. Before you go to section 7 I should like to ask some member of the citizens' committee here about section 6, as to what is meant by this provision:

"That for any violation of any of the provisions or requirements of this act, or of any regulation made by the Commissioners of the District of Columbia under the authority of this act, the railway company so violating, and the president, the vice-president, and each of

the directors of the company owning, controlling, or in charge of said railway shall be jointly and severally liable to a fine of not less than twenty dollars nor more than one hundred dollars for each and every such violation, to be recovered in the police court of the District of Columbia as other fines and penalties are now recovered by law."

Does that mean that the police court has any civil jurisdiction to recover fines, or does it mean to say that they shall be fined and be punished criminally? I should like to inquire from some member of the citizens' committee what it exactly means. I do not think the police court has civil jurisdiction.

Mr. HENDERSON. It has, upon certain municipal regulations, so far as relates to the imposition of fines for a violation of municipal regulations.

Senator MALLORY. That is criminal jurisdiction. Here you speak of recovering a fine.

Mr. HENDERSON. Yes; the Senator is correct. The other is the criminal side.

Senator MALLORY. In other words, it says that these officials shall jointly and severally be liable to be fined, that they may all be tried together or tried separately, and a fine imposed. But from the language it would seem that that is a civil proceeding because it speaks of recovering the fine. I do not exactly see what is intended by it, and I should like to have some explanation, if any member of the citizens' committee can give it. Do they mean that it shall be a criminal offense and that they shall be fined criminally? If they do mean that, the bill ought to say so.

Mr. HENDERSON. It means that these fines and penalties shall be recovered as is provided for in other cases of municipal violations.

Senator MALLORY. If a man gets drunk and is arrested he is fined.

Mr. HENDERSON. If the fine is imposed and is not paid, then the party is imprisoned. It is one or the other, to pay the fine or suffer imprisonment for it. When he pays the fine it wipes out the imprisonment feature.

Senator GALLINGER. There is no imprisonment clause here.

Senator MALLORY. If it is the purpose to make a criminal offense on the part of the officials of the road I do not think the language conveys that idea very definitely. It seems to imply, to my mind at least, that there shall be a civil proceeding, in which these gentlemen may be sued severally or collectively, and a fine recovered; that is, as now recovered by law, as to fines and penalties. A penalty is a different thing from a fine. We may impose a penalty and collect it by a civil proceeding.

Senator GALLINGER. Manifestly the intent was to make it a misdemeanor and to impose a fine.

Senator MALLORY. It would be well to say so.

General HARRIES. Mr. Chairman, this is rather a disjointed presentation. It is not a presentation so far as we are concerned. We can take up only a few little odds and ends and talk through them.

May I call attention to Mr. Coldren's reference to Boston? The power was placed there in the hands of the board of aldermen. The board of aldermen gave the railroad its charter, and you go back to the power that made the company for regulations; you do not delegate to anyone else legislative authority. But that is what this proposition would mean.

Senator GALLINGER. There the authority given in the charter was exercised as they saw fit.

General HARRIES. The board of aldermen gave the charter to the railroad company, and therefore the board had reasonably the right to make any changes it pleased. Now, if Congress gives to us a charter and you delegate to the Commissioners the Congressional power, the Commissioners take the railroads, and they would be entirely at their mercy.

Senator GALLINGER. If it be a matter of schedule, Congress could establish a schedule for your road if Congress chose to do so?

General HARRIES. Yes, sir.

Senator GALLINGER. But the point I more particularly wanted to draw out is whether it would be possible to operate a street railroad in the District of Columbia or any other city under a fixed regulation regarding schedules.

General HARRIES. No, sir; and not live up to it. You can not do it.

Senator GALLINGER. If the Commissioners gave you a five-minute schedule and then a crowd occurred at certain hours of the day, you would be criminally held responsible if you put on a car every two minutes or three minutes.

General HARRIES. Certainly; we could not change the schedule at all unless we were given the necessary authority.

Senator GALLINGER. I should like to have these gentlemen address themselves to that point. If it is impossible of accomplishment, why attempt it?

General HARRIES. There is one particular point I should like to call attention to. I am sure it has not been discussed. Let us suppose that our lines—150 miles—are in operation, and that there comes the necessity for putting on, say, 30 additional cars, over and above the extra cars we are now running at busy hours. Let us suppose the Commissioners say we must run 30 additional cars. That would mean 60 train men who would run one or two trips between 8 and 9 or 8 and 9.30 in the morning, and the same men would have perhaps two trips again between 4 and 5.30 or half past 4 and 6 in the afternoon. Can you find 60 men who are willing to accept those four trips as a day's work and live? Has anybody thought about that problem?

Senator GALLINGER. I think you would find they would be willing to accept it as a day's work, but would the company pay for it as a day's work?

General HARRIES. That is the point. There are plenty of people who would take all the money the road made with that sort of an arrangement.

Now, one other thing, and I am done, and that is as to the cost of carrying passengers. Few people have any information as to the cost of carrying passengers in the District of Columbia, and fewer still have information as to the comparative receipts here and elsewhere.

During the year 1903 we carried on all our lines within the District more than 57,000,000 passengers. Of these, less than 40,000,000 gave cash or ticket fares; the remaining 18,000,000 rode on free transfers. The arithmetic involved is simple and shows that we receive less than 3 cents from each passenger; to be exact, it was 0.02977.

In no other city in the country are there more privileges for the passenger. Outside of Washington the rule is for a straight 5-cent

fare; here we are required by law to sell six tickets for 25 cents. The difference may seem slight to those who do not give this matter thought. Let us see what the difference really does amount to. Last year nearly 7,500,000 passengers paid cash fares while about 32,000,000 paid for transportation with tickets. Reduced to the language of business this means that the traveling public saved to itself by the use of tickets more than \$268,000. That sum added to the receipts of our system would have made possible the doing of many things that may not now be reasonably asked for. In many cities—notably in Philadelphia—passengers pay not only the straight 5-cent fare, but they also pay 3 cents for every transfer; yet in Philadelphia the street railway equipment is overhead trolley which costs less than 50 per cent of the cost of the system which Congress has compelled the Washington companies to use.

The concrete fact is that in other cities the investment and the consequent fixed charges are less while the receipts per passenger are very much more than they are in the District of Columbia. How then can any rational person demand additional privileges without proffering additional compensation?

Senator GALLINGER. I will suggest that if Mr. Henderson, who made the first argument and perhaps was not given as much time as he wished, wants to elaborate a little in presenting any facts he will have permission to do so, and if Mr. Dunlop and General Harries wish to present any statistics they will be permitted to incorporate them in their statements.

STATEMENT OF GEORGE TRUESDELL.

Mr. TRUESDELL. Mr. Chairman—

General HARRIES. Colonel Truesdell is one of the directors in our company and is interested in the Washington street railways. I hope it will be the pleasure of the committee to hear him briefly.

Senator GALLINGER. Certainly. Proceed, Colonel Truesdell.

Mr. TRUESDELL. I am, as General Harries says, a director in these companies and I have been a stockholder for a great many years. I can also speak from other points of view. I am a large property holder in the District outside of the city, and I am in entire sympathy with the desires expressed by these gentlemen that they should have better service on suburban roads. One reason for that is that with the large number of houses I have there I frequently have complaints from my tenants in regard to the cars being overcrowded at certain hours. I have repeatedly been to the railroad office at the time of board meetings and at other times, and I have talked with the auditor and with General Harries as to the ability of these companies to furnish a better service, which would be very much to my interest. My real estate interests are very much larger than any interest I have in the roads.

Senator GALLINGER. Your interests are largely in Eckington, Colonel?

Mr. TRUESDELL. Yes, sir; they are very large there; but as a practical railroad man (I built the Eckington Railroad and operated it a good many years, and I have been connected with it in one form and another ever since it was built), I know that it is impossible for the railroad companies to furnish a better service than they are now doing, and that arises from the simple fact that they have not the means to do it.

It is a very unpleasant thing at certain hours of the day to be dangling upon straps in a street car. I experience that every day. I experience it on all lines at certain hours of the day, as I do in New York and Boston and all the other cities of the country, at certain hours of the day when the cars are so crowded that it is very inconvenient. It is desirable that that thing should be abated. It would be very nice if everybody could have a seat. But if Congress would enact legislation that would practically do away with the crowding of the cars, if it were possible to do so, what would become of the revenues of the company? The expenses would increase so enormously that it would be simply impossible to conduct the roads.

The railroad business is essentially a picayune business. I know that from the standpoint of an operator. It requires very careful management. Very few men have the ability, and a less number have the experience, necessary to operate a railroad to the best advantage. You may take the same road, and with one man operate it at a loss of \$100,000 a year, while the right man in charge of it may possibly operate it at a profit of \$50,000 a year. This simply illustrates the difference between a very clear-headed, careful, experienced man and a man who has not the necessary experience and ability to operate a road properly.

Now, there are one or two facts I should like to present to the committee which seem to me to be very important. In the first place, it is perfectly apparent that this bill has been drawn in the interest of people who reside in the suburbs. I think it is apparent also that it has been framed by inexperienced and impractical men.

In regard to the suburban roads I wish to state one important fact. Beginning with 1875, I think it was, when the Anacostia and Potomac road was first chartered, and coming down to about 1888 or 1889, there were chartered in this District ten or twelve suburban roads, and it is from the patrons of those roads chiefly that these complaints come, and, I take it, in whose interest this bill has been framed.

Now, what is the fact in regard to those roads? Many of them have been in the hands of receivers, and not a single one has ever paid a dime to any stockholder. When Congress charters a railroad I suppose it is with the understanding that if the railroad company builds the road in good faith and spends all the money it derives from the public from passenger traffic in providing the best service it can afford that that railroad company is discharging its duty to the public.

Now, it may be that the service will not be as good as is desirable, but it is an impracticable thing to give the same service out in the suburbs that you can give on Pennsylvania avenue. It is not necessary to elaborate that; everyone knows it.

In addition to spending every single cent that has ever come from the public as passenger receipts since 1875 down to the present time on these suburban roads, the managers have gone down into their pockets to the tune of hundreds of thousands of dollars to pay the expenses of operation. I submit to these gentlemen, what more can they reasonably expect from these companies? I have been a stockholder for fifteen years and never received a penny on it in the way of a dividend. I might say that I would be reasonably entitled to a dividend upon that stock, but the company does not earn it. Every single penny

that it earns is used in the payment of current expenses. Every one of those roads is burdened with a large floating debt.

Now, suppose you enact some drastic legislation that requires these roads to do things, or that you give the Commissioners the power contemplated in this bill, and they require the railroads to do things that call for a large expenditure of money, where is that money coming from? The companies have no credit. If you require Mr. Dunlop to build his line out in the country somewhere, for the accommodation of people in the suburbs, you give him the privilege of issuing stock and bonds to enable him to do that. When the company has expended all the money it has, and when it requires more than all it receives from traffic to pay current expenses, you can not fairly require it to spend more. You may pass a bill requiring it to spend more, but what would be the effect of it? Gentlemen who own stock in that road and who have not had anything out of it for fifteen years will not go down into their pockets and pay out money to be used in paying current expenses. They can not be expected to do it, and there is no power in the company to assess its stockholders for that purpose.

The fact about it is, that these gentlemen who are not stockholders, and, so far as I know, have never put any money in these roads, expect and demand that the people who are unfortunate enough to own them shall do things they can not afford to do and which they ought not to be required to do.

Senator MALLORY. Are the suburban roads you speak of as being in such tight conditions all the time paying interest on their bonds?

Mr. TRUESDELL. Some of them. In the case of the Brightwood road that General Harries speaks of, it is, I believe, in arrears.

General HARRIES. There is a very large floating debt. The City and Suburban went into the hands of a receiver with a floating debt of about \$260,000.

Mr. TRUESDELL. Of course the prospect on these roads is increasing; the deficit is growing less. In the case of the City and Suburban road, I believe they turned the corner this year, and show I think over and above operating expenses some \$6,000. That is the first time any suburban road has ever done that in the District from the date of its charter down to the present time.

Now, gentlemen, let me say a word as to the practicability of this scheme from another standpoint. I was Commissioner of this District for three or four years, and in addition to my experience in railroad-ing I had that experience. I may say I know from practical experience in that office that it is utterly impossible for any set of Commissioners, I do not care who they are, to exercise wisely and justly the powers that are proposed to be conferred upon them by this bill. They have not the facilities to do it. They have not the knowledge to do it. It takes a man of experience to operate a railroad unless it is done with disaster to the company.

Summing this thing all up, this is a proposal for municipal operation and control without financial responsibility, a proposal to turn over the railroads to inexperienced men to operate at the expense of the stockholders. I say, gentlemen, that is not a just proposition; it is not a practical one. If the bill should become a law you never could sell a dollar's worth of stock for any new railroad in this District, because it would place it in the power of a Board of Commissioners, if

they were disposed to do it, to put any railroad in the District, I do not care what, even my friend's road here, which pays well and is operated well, in the hands of a receiver by unjust exactions, and unjust exactions are very apt to come from inexperienced men.

**ADDITIONAL STATEMENT OF GEORGE T. DUNLOP, PRESIDENT OF
THE CAPITAL TRACTION COMPANY.**

Mr. DUNLOP. Mr. Chairman, I just want to say one word about the impracticability of the whole scheme proposed here. This bill seems to have been framed by some one in the interest of putting the roads in the hands of the Commissioners. The Commissioners are in bed. A United States Army officer telephones to our company that he wants to move to-morrow hundreds of troops from the Arsenal to Fort Myer, or he telegraphs from some western station that he is on the way to Washington with troops, and he wants the cars at the depot to move so many hundred men or so many thousand men. The cars are there to move them. It is all done before the Commissioners are up in the morning.

Under the bill we should have to get permission from the Commissioners to run out additional cars. That is done constantly. Organizations are coming to Washington. They send on here and get the price for the fare. They send us hundreds of dollars for tickets. The tickets are shipped to them by express. When they get to the depot they need so many cars, and they are there. And these cars may have to move over routes not having been approved by the Commissioners. The train arrives, they all get in the cars, the bundle of tickets is handed to the conductor, and that is the end of it. Now, the Commissioners could not manage that. They do not know anything about it. That is done by the managers of our road.

Senator GALLINGER. Gentlemen, the members of the subcommittee are obliged to you for the very pleasant interview we have had.

The hearing was thereupon closed.

APPENDIX.

Answer of the representatives of the general committee of citizen's associations and of the Business Men's Association of the District of Columbia to the arguments of the railroad companies opposing said bill.

We especially urge upon Congress the enactment of the provision of section 2 of said bill, authorizing the Commissioners of the District of Columbia to supervise the schedules of street-car lines throughout the District, with the penalties for violation prescribed in sections 6 and 7 of the bill. This provision as to schedules is of preeminent importance to the citizens generally, and while we will urge later legislation on the other questions covered by the bill, we ask your especial attention to the schedule provision.

On some lines and in some locations present schedules are satisfactory and reasonable. Wherever this is the case the proposed law could not possibly work an injury.

On some lines and in some sections the present schedules are, we

believe, inadequate. Such in the testimony of numberless conservative and reasonable citizens, and such we understand to be admitted by the representatives of the railroad companies who appeared before your committee.

We submit that regulation of the schedules can be intrusted to the Commissioners with perfect safety. The course of the Commissioners under such a law would undoubtedly be to approve the schedule presented to them by the railroad companies. Then when complaints arose they would investigate such complaints by inspectors. They would then grant a hearing to the representatives of the railroad companies and the citizens making complaints. As a result of such hearing they would either leave the schedule unchanged or change it, if in their judgment it was just to do so, considering, of course, the financial interests of the company, the actual increase of cost of more frequent service, etc. Then if the company persistently violated such schedule prosecution could be had and the case tried in court on its merits.

The suggestion of Mr. Dunlop that additional cars are required for special emergencies is no objection to the law. The intent of the law is, of course, that the cars must be operated as frequently as the approved schedule required. No one can object to additional cars or more frequent schedules, either temporary or permanent. If the present frame of the bill is not considered clear on this point, we suggest the following amendment:

In line 2 of page 3 of the bill strike out the words "other schedule or" and insert in lieu thereof the following, "less frequent schedule or upon any other."

This does away with the suggestion of General Harries of a necessity to change schedules every day or two. The Commissioners of this District must be presumed to be reasonable men, and everyone knows that there is no danger of schedules being changed every few days or on anything less than valid grounds and due consideration.

The suggestion that one line is now in the hands of a receiver, and hence under control of the equity court, is no objection to this law. That fact would necessarily be known by the Commissioners, and of course they would adopt no regulation without due regard to the authority of the court in the premises. If they should do so such fact would unquestionably present an adequate defense in case of prosecution of the company's officers. Such a temporary condition as to one line should not defeat a law applicable to all lines.

The suggestion that some lines are not paying dividends should not defeat the proposed legislation. The financial condition of the line would necessarily be considered by the Commissioners in drafting schedules. The general corporation known as the Washington Railway and Electric Company operates two lines that are now very profitable, namely, the Metropolitan and Columbia lines. It has seen fit to obtain control of other lines burdened with debt, and to expend considerable sums upon those lines in improving the service. It did this with a full knowledge of the facts, manifestly as an investment for the future. Is it right to require present citizens to suffer the inconveniences of bad service because of old debts of former owners of these roads, contracted, doubtless to a large extent, through bad management? Is this not, in a sense, placing on the shoulders of our citizens old obligations for which they are in no way responsible?

The said Washington Railway and Electric Company acquired control of the Brightwood Railway Company when the charter of the said Brightwood Railway Company contained the following provision (act of October 18, 1888, U. S. Stat. L. 25, p. 560, sec. 10, H. Doc. 423, 54th Cong., 1st sess., compilation of laws relating to street railway transactions in the District of Columbia, p. 81):

"That the company shall place cars of the best construction on said railway, with all modern improvements necessary to the convenience and comfort of passengers, and shall run cars thereon as often as the public convenience may require, in accordance with a table or schedule fixed by the company, a copy of which shall be filed with the Commissioners of the District of Columbia and approved by them."

Said Washington Railway and Electric Company acquired control of the Eckington and Soldiers' Home Railway Company when the charter of said company contained the following provision (act of June 19, 1888, Stat. L. 25, p. 190, H. Doc. 423, 54th Cong., 1st sess., p. 84, sec. 10):

"That the company shall place cars of the best construction on said railways, with all modern improvements necessary to the convenience and comfort of passengers, and shall run cars thereon as often as the public convenience may require, in accordance with a time-table or schedule adopted by the company, a copy of which shall be filed with the Commissioners of the District of Columbia and to be approved by them."

As stated to your committee, neither of above laws contains a penalty clause.

The above named are lines on which there is special complaint of inadequate service, yet the Washington Railway and Electric Company acquired those lines, whose charters then contained the above provisions of law, and now said company objects to any legislation which will make said law effective.

The charters of the following companies contained provisions similar to the above:

Metropolitan Railway Company, act of July 1, 1864, section 9 (p. 123 of above-named House document).

Washington and Georgetown Railway, now the Capital Traction Company, act of May 17, 1862, section 9 (p. 49 of above House document).

Rock Creek Railway, now Capital Traction Company, act of June 12, 1888, section 2 (pp. 58 and 59 of above House document).

Columbia Railway Company, act of May 24, 1870, sections 10 and 11 (p. 69 of above House document).

Georgetown and Tennallytown Railway Company, act of March 24, 1890, section 2 (p. 99 of above House document).

District of Columbia Suburban Railway Company, act of July 5, 1892, section 14 (p. 79 of above House document).

Brightwood Railway (second enactment), act of July 25, 1892, section 1 (p. 34 of above House document) and section 2 of same.

Capital Railway Company, act of March 2, 1895, section 13 (p. 40 of above House document).

Anacostia and Potomac River Railway Company, act of August 1, 1888, section 6 (p. 6 of above House document).

TRANSFERS.

As to the provision for reciprocal transfers in said bill, we call attention to the act of Congress of May 28, 1896, section 3 (p. 197 of above House document), which definitely requires the Metropolitan Railroad Company and the Capital Traction Company "to issue free transfers at the point of intersection of their respective lines, so that for the payment of one fare a passenger on either road shall have the privilege of riding over the lines of both."

This provision is absolutely ignored, the law fixing no penalty for its violation. It would be of the greatest convenience to our citizens if transfers could be had from the Pennsylvania avenue line to the Ninth street line at Ninth and Pennsylvania avenue, and from the Fourteenth street line to the Metropolitan line at H and Fourteenth streets, and from the F street line to the Seventh street line at F and Seventh streets, and from the Seventh street line to the Ninth street line at B and Seventh streets northwest. Our bill would enable the Commissioners to require such transfers.

The act of Congress of August 2, 1894, Statutes 28, page 217 (p. 196 of above House document), contains the following requirement:

"That every street railway company in the District of Columbia whose lines connect, or whose lines may hereafter connect, with the lines of any other street railway company, is hereby subjected to the same requirements as to transfers and trackage arrangements, and upon similar conditions, as in this section provided in the case of the Metropolitan Railway Company and the lines connecting therewith."

The provision as to the Metropolitan Railroad Company in said section is as follows:

"That the Metropolitan Railroad Company is hereby authorized and required immediately to make reciprocal transfer arrangements with street railroad companies whose lines now connect with its lines, and to furnish such facilities therefor as the public convenience may require."

This provision, carrying no penalty, is a dead letter. Our bill would provide a penalty and thus practically carry out what Congress has already declared to be law.

Taking up now the other provisions of the bill in their order, we will consider

WEIGHT OF CARS.

Section 1 of the bill prescribing as to weight of cars originated through the running of cars weighing 16 tons on the Metropolitan line some three years ago. Numerous citizens residing on that line vigorously protested that those cars so shook the earth as to cause cracking of plastering in their houses and that the noise of the tracks and of the electric motors operating them was so great as to destroy the comfort of such residents both day and night. The protests were so great that said cars were taken off. This bill gives authority for operation of cars weighing more than 10 tons, but only on such streets as the Commissioners may approve. There is no reason to believe that this authority would be abused, and yet it seems to us to provide a perfectly reasonable safeguard not only against existing lines but also against lines hereafter to enter the city.

CONDITION AND REPAIR OF CARS.

It will be observed that section 3 of the bill gives no authority to the Commissioners as to whether the cars are in proper condition or not. It requires cars to be kept in proper condition and provides a penalty for failure in sections 6 and 7 of the act, but determination of the question whether this provision is violated is left to the police court. The same is true as to the heating of cars.

WAITING ROOMS.

There are probably but few places in the District where the Commissioners would require waiting rooms to be maintained, but there are a few points where they are urgently needed. The numerous questions involved as to their location, material, and style of construction, etc., it seems to us should naturally and necessarily be determined by the Commissioners.

EMERGENCY BRAKES.

Careful investigation in the office of the Engineer Commissioner of the District shows that there is only one hill in this District now occupied by a street car line which has a grade greater than 5 per cent more than 1,500 feet in length. This is the hill on the Anacostia line this side of the insane asylum. On this hill a fatal accident occurred two or three years ago, caused by losing control of the car. As separate cars are run from Anacostia to Congress Heights, and only a few in number, this provision will cause very little tax upon the companies.

RUNNING SUBURBAN CARS INTO THE CITY.

It will be observed that section 5 does not require that all the cars of suburban roads shall be run down into the city. The intention was to authorize the District Commissioners to determine how many of the suburban cars should be run down into the city, and to make this clear we suggest the following amendment:

Insert after the word "Washington," in line 20, page 5, the following:

"The number of cars to be so run, and the schedule, route, and destination of each to be determined by the Commissioners of said District."

This provision will safeguard against such suburban cars "wandering around" on existing tracks in the city as suggested by General Harries. The supreme court of the District is authorized to determine the compensation therefor as between the companies. In the cities of Detroit, Cleveland, Indianapolis, and others, to the personal knowledge of members of this committee, numerous suburban lines are authorized and required to run their cars through the business centers, over existing tracks. This is regarded as extremely beneficial to the business interests of the city, as well as advantageous to suburban residents. Congress has never contemplated that authority to construct tracks on such thoroughfares as Pennsylvania avenue and F street gave the company so constructing a monopoly of street car business on those streets. We believe that this bill thoroughly safeguards all interests, that neither the Commissioners nor the court will permit injustice in the matter, and that the provision is proper.

Finally, we confidently believe that a careful study of the situation, a comparison of the laws regulating this subject in all the great cities of this country, and a careful examination of the bill before you, will satisfy you of its justice and propriety. The railroad companies have suggested that such legislation is not merely for the present Board of Commissioners, but for any future Board which might prove to be incompetent. We would answer that such legislation is not merely for the present street car companies, but for any future lines or changes in control of existing lines; that the fears of those now controlling the railroads are groundless as to oppressive enforcement of such a law, and that the provisions of the bill are only reasonable safeguards to the public.

As stated to your committee, the establishment of a board of street railroad commissioners, composed of not less than three persons, clothed with the power suggested, would doubtless be satisfactory to our citizens, but such plan being apparently impracticable at present by reason of the cost, we believe that the proposed bill, and certainly its provision as to regulation of schedules, should receive your favorable report.

Respectfully submitted.

W. G. HENDERSON,

*Chairman of general committee on street railroads, composed
of delegates from the various citizens' associations of the
District of Columbia.*

FRED G. COLDREN,

*Of the committee on street railroads of the Business Men's
Association of the District of Columbia.*

INDEX OF STATEMENTS.

	Page.
Chairman's opening statement, with text of bill	3
Coldren, F. G., statement of	17
Dunlop, G. T., statements of	22, 38
Harries, G. H., statement of	25
Henderson, W. G., statement of	6
Hooper, L. L., statement of	20
McLaughlin, A. E., statement of	22
Truesdell, G., statement of	35
Appendix. Answers of the representatives of the general committee of citizens' associations and of the Business Men's Association of the District of Columbia to the arguments of the railroad companies	38

HEARINGS

BEFORE A

121

SUBCOMMITTEE.

OF THE

COMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

UNITED STATES SENATE

ON THE

BILL (S. 2402) TO SECURE SANITARY DAIRY PRODUCTS
FOR THE DISTRICT OF COLUMBIA.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.

1904.

SANITARY DAIRY PRODUCTS FOR THE DISTRICT OF COLUMBIA.

WASHINGTON, D. C., *February 2, 1904.*

The subcommittee met at 2 o'clock p. m.

Present: Senators STEWART, HANSBROUGH, and MALLORY.

Senator STEWART. The hearing this afternoon is on the bill (S. 2402) to secure sanitary dairy products for the District of Columbia.

The bill is as follows:

"Be it enacted, etc., That in lieu of the officers and sanitary inspectors who administer and execute the laws relating to dairy products in the District of Columbia, there shall be appointed by the Commissioners of the District of Columbia an inspector of dairies, to be known as chief inspector, who shall be an analytical chemist and familiar with the dairy business, who shall be under the immediate and direct supervision of said Commissioners, and who shall also have charge of such other analytical work as the said Commissioners may direct. And there shall also be appointed by the said Commissioners, on the recommendation of the chief inspector, one analytical chemist and ten subordinate inspectors of dairies. And in lieu of the sanitary inspectors and veterinarians now employed for the inspection of dairies and dairy farms where milk is produced, there shall be appointed by the said Commissioners, on the recommendation of the chief inspector, four inspectors, at an annual salary of one thousand three hundred dollars each, who shall be veterinary surgeons, and whose duties shall be performed at the dairies and dairy farms where milk is produced to be disposed of in the District of Columbia. And the said Commissioners may remove any of the officers herein provided for at pleasure, and may from time to time, on the recommendation of the chief inspector, prescribe the duties of each. Before any appointment herein provided for shall be made, the applicant shall not only prove his qualifications for the position, but shall also be required to furnish satisfactory evidence of good moral character, honesty, and fidelity to duty. The chief inspector of dairies shall receive an annual salary of two thousand four hundred dollars, the chemist one thousand eight hundred dollars, and the subordinate inspectors one thousand dollars each. It shall be the duty of the officers herein provided for to execute existing laws relating to dairy products as amended and modified by this act.

"SEC. 2. That every place in the District of Columbia where milk is sold is a dairy within the meaning of this act. Every dairy shall be above ground and at least fifteen feet from any stable, soap factory, or other building wherein any business injurious to milk is conducted.

Each dairy shall have house room sufficient for cooling, preserving, and bottling milk, and also for the cleansing of bottles, cans, and all utensils of every kind used in the business. No milk or other dairy product shall be brought into or sold in the District of Columbia which contains any foreign substance, whether such substance be used as a preservative, as coloring matter, or for any other purpose whatever. Any person having in his possession for sale, or offering for sale, any milk or other dairy product containing foreign substances by this act prohibited shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty nor more than one hundred dollars or imprisonment for not less than thirty nor more than sixty days. Any person sending any dairy products into the District of Columbia for sale which contain foreign matter by this act prohibited shall be subject to indictment by the grand jury and shall be brought to the District of Columbia for trial.

"SEC. 3. That all milk and other dairy products retailed in the District of Columbia must come from a regularly established dairy, and all bottles or other vessels used in retailing milk must be cleaned in such dairy before used a second time. No bottles or other vessels used in retailing milk must be filled outside of a regularly established dairy. Any person filling a bottle or other vessel with milk or cream outside of a dairy for delivery shall be guilty of a misdemeanor and shall be fined not less than ten nor more than one hundred dollars or imprisonment for not less than sixty days. Any person who shall procure bottles or other vessels to be filled outside of an established dairy for sale or delivery shall be fined not less than one hundred dollars or imprisonment for not less than three months.

"SEC. 4. That the Commissioners of the District of Columbia shall have power to make all rules and regulations necessary to carry this act and all other laws in force respecting dairies into full effect, and such rules and regulations shall have the force and effect of law."

Senator STEWART. There has been forwarded to me by the president of the Board of Commissioners of the District of Columbia a copy of a report which they made to the chairman of the District committee on this bill. The correspondence and papers will be printed in the Record.

The papers referred to are as follows:

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 26, 1904.

Hon. WILLIAM M. STEWART.

DEAR SIR: In response to your communication inclosing copy of Senate bill 2402 "to secure sanitary dairy products for the District of Columbia," with certain proposed amendments noted thereon, the Commissioners have the honor to transmit herewith copy of a report which they have this day made to the chairman of the Senate Committee on the District of Columbia, from whom they received a copy of the bill with request for their opinion as to its merits.

Very respectfully,

HENRY B. F. MACFARLAND,
*President of the Board of Commissioners
of the District of Columbia.*

OFFICE COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, January 26, 1904.

Hon. J. H. GALLINGER,
*Chairman of Committee on District of
Columbia, United States Senate.*

DEAR SIR: The Commissioners of the District of Columbia have the honor to state with reference to Senate bill 2402, "To secure sanitary dairy products for the District of Columbia," which was referred to them at your instance for report as to the merits of the legislation proposed therein, that, reserving for the present the question as to the additional expense required to provide an increase of the inspection force, they have to recommend that if the committee should determine to recommend to the Senate legislation of the character proposed in the bill, the proposed substitute bill prepared by the health department ought to be given preference, for the reasons given in the accompanying report of the health officer.

Very respectfully,

HENRY B. F. MACFARLAND,
*President of the Board of Commissioners
of the District of Columbia.*

HEALTH DEPARTMENT, DISTRICT OF COLUMBIA,
Washington, January 18, 1904.

The COMMISSIONERS OF THE DISTRICT OF COLUMBIA,
Washington, D. C.

GENTLEMEN: Referring to a bill to secure sanitary dairy products in the District of Columbia (S. 2402), which has been submitted to this department for report, I have the honor to submit the following statement:

This bill is apparently designed to accomplish two results: First, to strengthen the inspection force of the health department in so far as it has to do with the inspection of dairy products; second, to remove certain ambiguities and to supply certain deficiencies in the law now in force. Those provisions of the bill which are designed to strengthen the inspection force may be considered and enacted independently of the others without in any way detracting from their merits, and the value of those which relate to the sanitary aspects of the milk trade are not dependent on an increase in the inspection force.

On the other hand, the strengthening of the inspection force involves an appropriation, which might be open to objection on account of the condition of the District finances, and an attack arising even from that source would jeopardize those features of the bill which could be enacted without any necessity for an appropriation. And, furthermore, the general features of the bill may be attacked by representatives of interests which would not be opposed to an increase in the inspection force, and thus, possibly, legislation looking toward such an increase would be jeopardized when, if it were being considered alone, it might not be. For these reasons I believe that the likelihood of securing the needed legislation looking toward the improvement of the milk supply in this District would be increased if it were submitted in the form of two bills—one regulating the organization of the inspection force of the health department with reference to the

sanitary supervision of dairy products, the other regulating the production and sale of milk and cream generally. For that reason I have prepared and submit herewith a draft of a bill to provide a more efficient inspection of dairy products in the District of Columbia, and, separately, of a bill to regulate the production of milk and cream in and for the District of Columbia.

The proposed bill to provide for a more efficient inspection of dairy products in the District of Columbia embodies the provisions of section 1 of S. 2402 in an enlarged and somewhat modified form. If enacted it will create within the health department a division to be known as the dairy division, to be under a competent chief, responsible directly to the health officer. Due provision is made for the organization of the proposed inspection force, so as to supervise the production and care of milk upon the farm as well as the handling and distribution of milk by the local merchant. Provision is made, moreover, for the proper organization of a laboratory service, both chemical and bacteriological. It is believed that if this proposed bill be enacted into law the inspection of dairy products in this District will be upon a thoroughly satisfactory basis.

The proposed bill to regulate the production of milk and cream in and for the District of Columbia embodies such legislation as is needed to secure a thoroughly satisfactory control of the sanitary features of the milk business. Existing laws have been embodied in it, modified wherever it has seemed proper, and such new legislation has been added as has been dictated by experience in the enforcement of the law now in force. It has seemed preferable to frame the desired legislation in this way rather than to suggest legislation representing merely proposed changes, so as to have all legislation governing this matter in a single law for the convenience of those charged with its enforcement and of those who must live under it.

The following are the most important changes which the passage of such a bill as is proposed would effect:

1. The proposed bill if enacted will require all milk producers and dealers to provide and use sufficient and suitable means for cooling milk and cream which they handle and for keeping the same cold.

The most important feature in the marketing of milk is its delivery to the customer with a minimum of decomposition or "souring." Changes of this character result from the growth of bacteria in the milk. Such bacteria are not found in the milk as secreted by the cow, but are introduced in the process of milking and of marketing the milk. The number of bacteria actually introduced into the milk from without is probably, under ordinary conditions, relatively small. The milk itself, however, furnishes a suitable medium for their growth, and unless something be done to prevent it the number existing in the milk when it is delivered to the customer is enormous. When the growth of the bacteria referred to has proceeded to a certain point the milk is perceptibly "sour," and is not likely to be consumed by any intelligent adult (at least not until the souring process has been completed and the mass has turned into clabber or been manufactured into "cottage cheese").

Something can be done toward retarding the decomposition of milk by limiting the number of bacteria in it through due attention to cleanliness, etc., while milking. In view, however, of the extreme rapidity with which bacteria multiply careful milking alone is not sufficient to keep milk reasonably "sweet" for any considerable length of time in

warm weather. To accomplish this end it is necessary that the germs which have been introduced be destroyed by the application of heat or that their growth be retarded by keeping the milk cold. Milk which has been heated in order to kill the germs which it contains is ordinarily sold as a special grade of milk, known either as sterilized or pasteurized milk; the average market milk is not so treated. In order to prevent souring dealers must rely on prompt cooling and the continuous application of cold.

The cooling of milk and the application of cold to it so as to maintain it at a low temperature requires labor and a certain expenditure of money. They are, therefore, not uncommonly neglected by more or less careless producers and dealers. For this reason it is proposed that the law of the District should require that milk be properly cooled when produced, and that it be kept cold. No temperature is fixed, but the matter in any particular case would be determined by the court in view of the evidence offered.

2. The proposed bill will require producers of and dealers in milk and cream to provide their establishments with apparatus for the cleaning of receptacles in which milk is received, kept, stored, measured, or delivered.

Bacteria, as has been stated, cause decomposition in milk. They rapidly multiply and remnants of milk in milk utensils and receptacles are potent factors in hastening the decomposition of milk introduced into unclean receptacles. It is necessary, therefore, if the community is to have a proper milk supply, that every one engaged in the production and sale of milk should be equipped with the proper facilities for cleansing the receptacles which he uses.

3. The proposed bill will make the presence on a dairy farm of a cow which is in such condition as to render her milk unfit for sale prima facie evidence that her milk is being sold. It will, however, make ignorance of the condition of such a cow a legal defense against any charge which may be brought if a knowledge of her condition could not have been obtained by due diligence.

Existing law provides that no person shall sell or offer for sale milk taken from any cow suffering from any general or local disease which is liable to render such milk unwholesome. In attempting to enforce this requirement, however, in a given case, the health department was required to trace the milk from the cow to a particular customer in order to sustain the charge. The requirement of such evidence renders the law as it now stands practically nonenforceable. It is to remedy this condition that the legislation above referred to is proposed. If the milk producer has not sold or offered for sale the milk from the diseased animal, it should not be difficult for him to prove that fact to the satisfaction of the court.

4. The proposed bill undertakes to regulate the sale of condensed milk.

Condensed milk as now sold is either condensed whole milk or condensed skimmed milk. Some of it contains more extraneous matter and other contains less. The proposed law regulates the amount of extraneous matter which may be added and requires that condensed skimmed milk be so labeled.

5. The proposed bill will reduce the standard of milk from $3\frac{1}{4}$ per cent milk fat to $3\frac{1}{4}$ per cent milk fat and from $12\frac{1}{4}$ per cent total solids to 12 per cent total solids. It will, however, fix a limit in the souring process beyond which milk may not go and yet be saleable simply as milk.

The experience of the health department has indicated that the requirements of the present law that whole milk shall contain not less than 3½ per cent butter fat is too rigid, and for this reason it is proposed to reduce the standard indicated above. It is believed, however, that the law should protect the customer against the sale of milk the keeping qualities of which have been impaired by reason of the extent to which it has advanced in the souring process at the time of sale. The proposed acidity limit will afford the means for accomplishing this result.

6. The proposed bill seeks to prevent traffic in diseased cows for dairy purposes.

Cows condemned as unfit for dairy purposes on one farm not infrequently find their way to another, the purchaser being ignorant of the fact of their condition, although the seller, of course, is not. This provision of the proposed law is designed to protect honest farmers from fraud of this character.

7. The proposed law provides that the farmer shall report to the health officer such diseases as are liable to occur on the premises and the presence of which endangers the milk supply therefrom.

The purpose of this requirement is to enable the health officer to direct the work of his inspection force to the best possible advantage. The requirement that the condition specified be reported does not mean that milk from the premises shall be stopped, but will enable the health department to determine whether such action is or is not necessary.

8. The proposed bill will tend to prevent, if enacted, the substitution of ordinary milk or cream for milk or cream from tuberculin-tested cattle.

Whether milk from tuberculin-tested cows is or is not better than ordinary milk is a question not involved in the proposed legislation. If the consumer desires to have milk from tuberculin-tested cows and pays for such milk, he is entitled to be protected from the substitution of any other article. The proposed legislation will, it is believed, accomplish this purpose so far as is practicable. Such legislation is desirable because of the fact that dealers have from time to time built up businesses on the basis of public advertisements, alleging that the milk supplied by them came from tuberculin-tested cattle, but have failed later to have the cattle introduced into the herd subjected to that test, thus willfully or negligently perpetrating a fraud upon their customers.

The consideration of the proposed bill to provide a more efficient inspection of dairy products, with reference to the assets of the District of Columbia available for its enforcement, is necessarily left to the Commissioners. Subject, however, to such consideration of the proposed bill, it is respectfully recommended that a bill to secure sanitary dairy products for the District of Columbia (S. 2402) be returned to the Senate Committee on the District of Columbia with the statement that the two proposed bills, drafts of which are submitted herewith, if enacted, will, in the opinion of the Commissioners, accomplish the results apparently aimed at by S. 2402 better than will the original bill, and with the recommendation that the substitute bills forwarded herewith be favorably considered and acted upon.

Respectfully,

WM. C. WOODWARD, M. D.,
Health Officer District of Columbia.

A BILL to provide a more efficient inspection of dairy products in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to provide for the better enforcement of the laws relating to the production and sale of dairy products in the District of Columbia, there shall be organized as a part of the health department of said District a division to be known as the dairy division. To that end the Commissioners of said District shall as soon as practicable after the passage of this act, and within six months, appoint an inspector, to be known as the chief inspector of dairy products, thirteen subordinate inspectors of dairy products, one clerk, and one skilled laborer, each to be selected because of his special fitness for the office to which he is to be appointed, and after having served one year to be removable only for just cause as determined by the Commissioners of said District. Six of the inspectors aforesaid, however, shall be qualified veterinary surgeons, who have been graduated after a proper period of study by a school of veterinary medicine authorized by law to confer the degree of doctor of veterinary medicine or some similar degree. The inspectors, clerk, and laborer aforesaid shall execute and assist in executing, under the direction of the health officer of said District, such laws and regulations as may be in force from time to time in said District relating to the production and sale of dairy products, and may perform other service only when in the opinion of said health officer such service will not interfere with their duties arising out of the enforcement of the laws and regulations aforesaid. The chief inspector of dairy products shall receive an annual salary of two thousand dollars, the subordinate inspectors who are veterinary surgeons each an annual salary of one thousand three hundred dollars, the subordinate inspectors who are not veterinary surgeons and the clerk aforesaid each an annual salary of one thousand dollars, and the skilled laborer an annual salary of eight hundred dollars.

SEC. 2. That in order to provide for the proper bacteriological supervision of dairy products produced or sold in the District of Columbia, the Commissioners of said District shall appoint a bacteriologist and an assistant bacteriologist. Said bacteriologist and assistant bacteriologist shall be appointed and shall hold office subject to the conditions hereinbefore specified with reference to inspectors of dairy products, and, under the direction of the health officer of said District, shall do all such bacteriological work as may be required in connection with the work of the health department. Said bacteriologist shall receive compensation at the rate of two thousand dollars per annum and said assistant bacteriologist shall receive an annual salary of one thousand dollars per annum.

SEC. 3. That from and after the passage of this act, the inspector now connected with the health department of the District of Columbia who is officially known and described as the "sanitary and food inspector, who shall also inspect dairy products and shall be a practical chemist," and who receives an annual salary of one thousand eight hundred dollars, shall be known officially as the "chemist" of the health department and shall receive an annual salary of two thousand four hundred dollars. Said chemist shall perform all such chemical work as may be required of him by the health officer of said

District, and shall be provided with such assistance as may be necessary by details by said health officer from among the employees provided for by section one of this act.

SEC. 4. That in event of the absence or disability of the chief inspector of dairy products, the bacteriologist, the chemist, the clerk, or the laborer aforesaid, the health officer of said District may detail from among the employees of the District of Columbia in the service of the health department, such person as he deems best suited to discharge the duties of the absent or disqualified officer, and the person so detailed shall, during the continuance of such detail, be authorized to perform such duties.

SEC. 5. That the health officer of the District of Columbia, the chief inspector of the health department of said District, the chief inspector of dairy products, and each and every subordinate inspector of dairy products, the chemist, the bacteriologist, and the assistant bacteriologist aforesaid are each and every one hereby authorized in the performance of their official duties to enter and inspect all places in said district where dairy products are produced or sold, or held or offered for sale, and for purpose of inspection to board and examine all cars, boats, wagons, and other vehicles and to stop all wagons and other vehicles in or upon which dairy products are or are believed to be. No person shall interfere with said health officer, or any inspector, or with the chemist, bacteriologist, or assistant bacteriologist aforesaid in the performance of his official duty when such person has reasonable ground for recognizing such health officer, inspector, chemist, bacteriologist, or assistant bacteriologist in his official capacity, nor shall any person hinder, prevent, or refuse to permit any examination or inspection aforesaid. And it shall be the duty of every person engaged in the production or sale of dairy products in the District of Columbia to facilitate in every practicable way every inspection made in the discharge of the duties imposed by this act. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof be punished by a fine not exceeding two hundred dollars, or by imprisonment not exceeding sixty days, or by both such fine and imprisonment in the discretion of the court.

SEC. 6. That for the purpose of carrying this act immediately into effect and for continuing it in force until the thirtieth day of June next there be, and is hereby, appropriated the sum of ——— dollars, payable from any moneys in the Treasury of the United States not otherwise appropriated, one-half chargeable to the District of Columbia and one-half to the United States, and from and after the appointment by the Commissioners of said District of the inspectors herein authorized the terms of such inspectors as are now provided for by law for the enforcement of the laws relating to the production and sale of milk in the District of Columbia shall cease and determine. And from and after the passage of this act so much of any appropriation as may have been made in whole or in part for the support of the chemical laboratory of the health department shall be available for equipping and maintaining a bacteriological laboratory also.

A BILL to regulate the production and sale of milk and cream in and for the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall, in the District of Columbia, sell milk or cream, or hold, offer, or produce milk or cream for sale, without a permit so to do from the health officer of said District. Application for such permit shall be in ink on a blank furnished by said health officer. Said health officer shall, upon receipt of such application in due form, make, or cause to be made, an examination of the premises which it is intended to use for, or in connection with, such selling, holding, offering, or producing, and if the same be found to conform to the regulations governing dairies and dairy farms, and to be provided with sufficient* and suitable means for cooling milk and cream and keeping the same cold, and for effectually cleansing all receptacles in which milk or cream is received, stored, kept, measured, or delivered, and, if such milk is to be produced on such premises, the cows to be used for that purpose are suitable therefor, said health officer shall issue such permit as is hereinbefore specified without charge: *Provided*, That no applicant shall be restrained from conducting business until his application has been acted upon by said health officer, but that no applicant whose application has been rejected shall be permitted to file a new application within ten days, exclusive of Sundays and legal holidays, after the date of such rejection: *And provided further*, That any permit may be suspended at any time without notice by said health officer whenever, after investigation, in his judgment, the milk or cream authorized by such permit to be sold, or to be held, offered, or produced for sale, is exposed to infection by Asiatic cholera, anthrax, diphtheria, erysipelas, scarlet fever, smallpox, splenic fever, tuberculosis, typhoid fever, or other disease so as to render its distribution dangerous to public health.

SEC. 2. That no person shall bring any milk or cream into the District of Columbia for sale without a permit so to do from said health officer. Application for such permit shall be made in ink, on a blank furnished by said health officer, and shall be accompanied by such detailed description as said health officer may require of the premises which are used or intended to be used in connection with the production, storing, and shipment of such milk or cream, and by a description of the devices, apparatus, and utensils for the cooling, storage, and shipment of milk or cream, and for the cleansing of such receptacles and measures as are used in connection therewith. Said application shall be accompanied further by a sworn statement from a legally qualified veterinary surgeon as to the physical condition of the cattle from which such milk or cream is to be derived. If after examination of said application, and after an examination of such premises, devices, apparatus, utensils, and cattle by proper representatives of the health department of said District, said health officer is satisfied that the milk or cream produced on the premises described in said application will be brought into said District for sale without danger to public health, he shall issue to the applicant, without charge, a permit so to do, on condition that the statements made by the appli-

cant in, or in connection with, his application are true; that none but pure, unadulterated milk or cream, which has been properly cooled and kept cool, shall be brought into said District; that in the management of his premises, and in the production, storage, and shipment of milk or cream, and in all matters connected therewith, the licentiate shall be governed by the laws and regulations governing dairies and dairy farms, and the production, storage, and sale of milk and cream in the District of Columbia when such laws and regulations do not conflict with the law of the State in which his premises are located; and that such premises and all devices, apparatus, and utensils connected therewith, and all cattle thereon, may be inspected at any time, without notice, by the health officer of the District of Columbia or his duly appointed representative; and no licentiate shall bring or send milk or cream into said District when and so long as said licentiate fails or refuses to comply with any and all of the conditions aforesaid: *Provided*, That no applicant shall be restrained from bringing milk or cream into said District subject to the conditions aforesaid until his application has been acted upon by said health officer, but that no applicant whose application has been rejected shall be permitted to file a new application within ten days, exclusive of Sundays and legal holidays, after the date of such rejection: *And provided further*, That any permit aforesaid may be suspended, without notice, by said health officer whenever, after investigation, in his judgment, the milk or cream therefrom is exposed to infection by Asiatic cholera, anthrax, diphtheria, erysipelas, scarlet fever, smallpox, splenic fever, tuberculosis, typhoid fever, or other disease, so as to render its distribution dangerous to public health.

SEC. 3. That no person shall knowingly sell, exchange, or deliver, or have in his possession or custody, with intent to sell, exchange, or deliver any milk or cream which has been brought without lawful authority into the District of Columbia, or which has been produced in said District on any dairy farm not authorized to produce milk and cream for sale.

SEC. 4. That no person shall in said District sell, exchange, or deliver, or have in his possession with intent to sell, exchange, or deliver, any milk or cream taken from any cow less than fifteen days before or five days after parturition, or from any cow which is suffering from any general or local disease, condition, or injury which is liable to render the milk or cream from said cow unwholesome, or from any cow insufficiently fed, or fed on any substance liable to affect injuriously the quality of the milk or cream from such cow; and the presence on any premises on which milk or cream is produced for sale in said District of any cow which is suffering from any general or local disease, condition, or injury which is liable to render the milk from said cow unwholesome, or of any cow which is insufficiently fed or has been fed on any substance or substances liable to injuriously affect the quality of the milk, shall be prima-facie evidence of intent to sell such milk and of producing, holding, and offering such milk for sale: *Provided*, That no person shall be convicted under the provisions of this section who produces evidence satisfactory to the court before which he is tried that he did not know, and could not with due diligence have obtained knowledge, of the condition of the cow which rendered her unsuitable for the production of milk for sale within the provisions of this section.

SEC. 5. That no person shall in said District sell any milk or cream, or hold or offer any milk or cream for sale, which is not clean and wholesome and free from all foreign substances whatever; nor unless the same has been properly cooled and kept cool; nor under any misrepresentation in respect thereof as to name or quality, or as being what the same is not as respects wholesomeness, soundness, or safety.

SEC. 6. That no person shall, in the District of Columbia, manufacture, sell, or exchange, or offer or expose for sale or exchange, any condensed milk unless the same be made of pure, clean, wholesome milk and contain at least twenty-eight per centum of milk solids, of which not less than one-fourth is milk fat, nor unless such milk be free from all preservatives other than sugar, and from all substances dangerous to health: *Provided, however,* That condensed milk made from milk from which the cream, or a part thereof, has been removed, and which complies with the preceding provisions of this section except so far as relates to the ratio between milk fat and total milk solids, may be sold when plainly and legibly labeled "Condensed skimmed milk."

SEC. 7. That no person shall offer or have for sale in said District any milk containing less than three and one-fourth per centum of milk fat, or less than eight and one-half per centum of solids not fat, or less than twelve per centum of total solids, or which has an acidity equivalent to more than two-tenths per centum of lactic acid.

SEC. 8. That every person in said District selling, exchanging, or delivering milk, condensed milk, or cream, or having the same in his custody or possession to sell, exchange, or deliver, shall furnish to any agent of the health department of said District who shall apply to him for that purpose and tender him the value of the same, a sample sufficient for purpose of analysis. And whenever any person aforesaid shall deliver to any such agent a quantity of the article applied for sufficient for analysis, in addition to the amount requested by such agent, and shall deliver also a suitable container for the reception of the surplus so delivered, which said container can be conveniently and effectually sealed, and furthermore, shall request such agent to place the surplus so delivered in such container, it shall be the duty of such agent to comply with such request, and, having placed said surplus in such container, to seal such container and to return the same to the person from whom it was obtained. No person in said District shall tamper with any sample sealed and returned as aforesaid, or in any manner alter the same, except as may be necessary in due course of analysis. No person in said District shall make any counterfeit or imitation of any seal, or of any impression of any seal, used by the health department of said District for the purpose of sealing samples as aforesaid or otherwise, or have any such counterfeit or imitation in his custody or possession.

SEC. 9. That no person shall in said District sell, exchange, or deliver, or have in his custody or possession with intent to sell, exchange, or deliver, milk from which the cream or any part thereof has been removed, unless there be on the outside and above the center of the front of the vessel or container in which such milk is contained a sign, in uncondensed gothic letters not less than one inch high, as follows: "Skimmed milk."

SEC. 10. That no person shall in said District sell, exchange, deliver, or buy any cow to be used for the production of milk or cream for sale, knowing that such cow is unfit for that purpose by reason of disease or injury.

SEC. 11. That no person suffering from any communicable disease, or who is liable to communicate any such disease to other persons, shall in said District work or assist in or about the production of milk or cream for sale, or in or about the sale thereof. No person who has been exposed to diphtheria, scarlet fever, erysipelas, typhoid fever, smallpox, or other dangerous contagious disease shall work or assist in or about any dairy or dairy farm in said District within the incubation period of such disease as determined by the laws of said District or by the health officer thereof. No person having power and authority to prevent, shall knowingly permit any person aforesaid to work in or about the production or sale of milk.

SEC. 12. That every person holding a permit to sell milk or cream, or to hold, offer, or produce milk or cream for sale in said District, shall notify the health officer of said District, in writing, of the occurrence of any communicable disease and of any suspected communicable disease whatsoever among the persons employed by him in connection with the business authorized by such permit or among persons dwelling on the premises where such business is conducted, and of the occurrence of any communicable disease or of any disease of the udder among the cattle on the premises on which the milk or cream sold by him is produced, such notice to be forwarded to said health officer immediately after the person holding such permit shall become aware of the existence of any such disease as aforesaid.

SEC. 13. That no person shall in said District use any wagon or other vehicle for the delivery of milk or cream unless such wagon or vehicle has painted on or affixed to the outside thereof plainly and legibly, and so that the same may be easily read by passers-by, the name and the location of the place of business of the person owning such milk or cream, and if a permit to sell milk or cream has been issued to him the number of such permit, or if no permit aforesaid has been issued, but a permit to bring milk or cream for sale into said District has been issued, then the number thereof. No person shall in the District of Columbia fill with milk or cream any receptacle intended to be left with the purchaser of such milk or cream except such as are owned by such purchaser, except in the proper parts of premises which have been duly constructed and equipped and which are duly maintained for the handling, storage, and sale of milk and cream, nor unless the same has been properly cleansed since last used. No person shall use any wagon or other vehicle for the delivery of milk or cream which is not clean and free from everything liable to contaminate such milk or cream.

SEC. 14. That every person holding or offering in said District milk or cream for sale shall at all times keep posted conspicuously in his place of business, in plain and legible letters, and so that the same may be easily read by purchasers of such milk or cream, the name or names of the person or persons from whom such milk or cream has been obtained.

SEC. 15. That no person shall knowingly sell milk or cream, or knowingly offer milk or cream for sale, in the District of Columbia, under any representation that said milk or cream is produced by "tuberculin-tested cattle," "tested cattle," "cattle free from tuberculosis," "veterinary-tested cattle," or under any similar representation, except under the following conditions:

(a) The person who is licensed to produce such milk or cream for sale must have caused every cow and bull on the premises on which such milk or cream is, or is to be, produced for sale to be tested by the tuberculin test; must have caused every cow and bull found by such test to be tuberculous to be permanently removed from such premises; and must cause every cow and bull found free from tuberculosis to be permanently marked in such manner as to permit the ready identification of the animal, with the record of the examination of such animal filed with the health department as hereinafter required, by any inspector of said department.

(b) The person who is licensed to produce such milk or cream for sale must cause every cow or bull which is to be introduced into the herd to be properly isolated from such herd until after such cow or bull has been demonstrated by the tuberculin test to be free from tuberculosis, and marked in the same manner as cattle already on the premises are required to be marked by clause (a) of this section.

(c) The person who is licensed to produce such milk or cream for sale shall cause all cattle on the premises on which such milk or cream is produced to be tuberculin tested at least once every twelve months.

(d) The person who is licensed to produce such milk or cream for sale must at any time upon the discovery of any cow or bull on the premises suffering from tuberculosis cause such cow or bull to be immediately removed from such premises and cause such premises to be properly disinfected.

(e) The person who is licensed to produce such milk or cream for sale must within ten days after beginning business, and on the first day of January, April, July, and October of each year, file with the health department of the District of Columbia a written report on a form furnished by said department, duly sworn to by a veterinarian lawfully permitted to practice veterinary medicine in the jurisdiction in which such cattle are, showing the result of the inspection and of the testing of all cattle on the premises required by this section to be tested.

All inspection and examination required by this section shall be done by a veterinarian lawfully permitted to practice veterinary medicine in the jurisdiction in which such cattle are.

SEC. 16. That the Commissioners of the District of Columbia be, and they are hereby, authorized to make reasonable regulations to secure necessary water supply, drainage, ventilation, air space, floor space, and cleaning of all premises on which milk or cream is sold, or held, offered, or produced for sale, to secure proper care of such milk and cream, and to secure the isolation on such premises of cattle suffering from contagious diseases. And said Commissioners are further authorized to affix to such regulations such penalties as may, in their judgment, be necessary to enable them to secure the enforcement thereof.

SEC. 17. That it shall be the duty of the health officer of said District, and of such inspectors of the health department as he may designate, to enforce the provisions of this Act and of all regulations made by authority thereof. And said health officer and inspectors are hereby authorized, in the performance of such duty, to enter and inspect all places in said District where milk or cream is sold, or held, offered, or produced for sale, and to board and examine all cars, boats,

wagons, and other vehicles, and to stop all wagons and other vehicles for that purpose. No person shall interfere with said health officer or with any said inspector in the performance of his official duty when such person has reasonable ground for recognizing said health officer or inspector in his official capacity, nor shall any person hinder, prevent, or refuse to permit any inspection or examination aforesaid.

SEC. 18. That no person shall in said District counterfeit, or make any imitation of, or publish, or have in his possession any counterfeit or imitation of any permit authorized by this Act.

SEC. 19. That the term "milk," as used in this Act, shall be held to mean all varieties and forms whatsoever of the fresh milk of the cow unless otherwise indicated by the context.

SEC. 20. That the presence in said District, in or about the place of business of any person dealing in milk or cream, or in or about any vehicle used by any such person for the delivery of the same, of any milk or cream which is forbidden by law to be sold shall be prima facie evidence of an intent on the part of such person to sell the same, and of the fact that he is holding or offering the same for sale, unless the receptacle in which such milk or cream is contained is distinctly labeled with the word "condemned." No person shall, in said District, label any receptacle in which milk or cream is contained with the word "condemned," or have in his custody or possession any receptacle so labeled, unless the milk or cream contained therein be in fact unclean, unwholesome, adulterated, or otherwise unfit for consumption by human beings.

SEC. 21. That all permits to keep or maintain dairies and dairy farms in the District of Columbia, or to bring or send milk into said District, which have been issued in accordance with the provisions of "An act to regulate the sale of milk in the District of Columbia, and for other purposes," approved March second, eighteen hundred and ninety-five, shall cease and determine on the first day of the month of July occurring three months after the passage of this act; and all regulations which have been made under authority of said act shall continue in force until revoked by the Commissioners of said District.

SEC. 22. That any person who shall violate any of the provisions of this act, or aid in the violation thereof, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding two hundred dollars or by imprisonment not exceeding ninety days, or by both such fine and imprisonment, in the discretion of the court.

SEC. 23. That all prosecutions under this act shall be in the police court of said District, at the instance of the health officer of said District, upon information brought in the name of the District of Columbia and on its behalf.

SEC. 24. That all money appropriated and available for the enforcement of "An act to regulate the sale of milk in the District of Columbia, and for other purposes," approved March second, eighteen hundred and ninety-five, be, and the same is hereby, made available for the enforcement of this act.

SEC. 25. That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

STATEMENT OF DR. WILLIAM C. WOODWARD.

Senator STEWART. Doctor Woodward, you are the health officer of the District of Columbia, are you not?

Doctor WOODWARD. Yes, sir.

Senator STEWART. You have prepared two substitutes for Senate bill 2402?

Doctor WOODWARD. Yes, sir.

Senator STEWART. How many stores and other places, outside of dairies, are there in the city which sell milk?

Doctor WOODWARD. We have no definite information on that subject. The places, other than dairies, are not registered, so that anyone is at liberty to begin the sale of milk to-day and discontinue it to-morrow, and no record appears.

Senator STEWART. There are several hundred of them, are there not?

Doctor WOODWARD. I think there are, at least, several hundred.

Senator STEWART. At least several hundred?

Doctor WOODWARD. Yes, sir; they run up pretty well.

Senator STEWART. I do not know how many there are, but I have been told that there are four or five hundred of them.

Doctor WOODWARD. I should suppose there were easily that number.

Senator STEWART. Over those do you have any supervision?

Doctor WOODWARD. We have a general supervision over them as stores where provisions are sold. We have no special supervision over them so far as relates to the sale of milk.

Senator STEWART. Or the keeping of milk?

Doctor WOODWARD. Or the keeping of milk.

Senator STEWART. Or the cleanliness of the place where it is kept?

Doctor WOODWARD. No. They are subjected, of course—

Senator STEWART. You have provided a substitute bill. What provision have you in the substitute bill to remedy that?

Doctor WOODWARD. The existing condition is due to the fact that the law provides that no person shall keep or maintain a dairy—

Senator STEWART. I understand how it comes up.

Doctor WOODWARD. And it is proposed to accomplish the remedy by changing the phraseology so as to provide that no person shall sell milk or cream, or hold, offer, or produce milk or cream for sale, without a permit. We do away with the word "dairy."

Senator STEWART. You do away with the word "dairy?"

Doctor WOODWARD. Yes, sir; we make the prohibition on the sale of milk or cream without a license and not on the maintenance of the dairy.

Senator STEWART. How many of the dairies in the city are underground?

Doctor WOODWARD. A very small percentage of them. There are a few which I believe are in that condition. They were licensed in the early days of the present milk law, and in that way acquired what we may term rights which we now feel bound to respect. At the present time such places are not being licensed.

Senator MALLORY. What is your definition of a "dairy?" What constitutes a "dairy," substantially?

Senator STEWART. The police court has decided that a dairy is a place where that business is carried on exclusively. If the proprietor carries on other business, it would not be a dairy.

Doctor WOODWARD. Where the principal business is the sale of milk. Senator MALLORY. The selling of milk.

Doctor WOODWARD. Or cream.

Senator MALLORY. In other words, where the sale of milk is not the principal business, but merely incidental to some other business, the proprietor is not subject to the laws that are now in force?

Doctor WOODWARD. Yes.

Senator MALLORY. It seems to me that is a very thin distinction.

Senator STEWART. The judge of the police court was all wrong about it.

Senator MALLORY. It occurs to me that it would be very difficult at times to determine which is the principal business.

Senator STEWART. It makes the whole thing a farce. [To Doctor Woodward] Read the provision in your substitute which will prevent the sale of milk in such instances as I will mention. For instance, in and near the outskirts of the city are little negro places and shanties, with poor people all around, who have a cow. She is probably sick. It does not profess to be a dairy, but a man will go around and collect the milk and sell it. Have you in your bill any provision to prevent that? The bill which I have introduced requires all the milk to come from a dairy, from an establishment, and prescribes what the "establishment" shall be. I think that if you will get up early enough any morning you will see an old fellow coming in with an old horse. He has picked up the milk at more than forty different places probably, a quart here and a gallon there.

Senator MALLORY. The solution of that problem would seem to be the adoption of the plan they have in Habana, of driving the cow up to your door and selling you the milk.

Doctor WOODWARD. Section 2 of the proposed substitute provides:

SEC. 2. That no person shall bring any milk or cream into the District of Columbia for sale without a permit so to do.

Senator STEWART. A good many of those persons are in the District of Columbia.

Doctor WOODWARD. Section 3 provides:

SEC. 3. That no person shall knowingly sell, exchange, or deliver, or have in his possession or custody with intent to sell, exchange, or deliver, any milk or cream which has been brought without lawful authority into the District of Columbia, or which has been produced in said District on any dairy farm not authorized to produce milk and cream for sale.

Senator STEWART. "Knowingly." Of course you could not prove that.

Doctor WOODWARD. The word "knowingly" has been inserted there advisedly, for this reason. It is believed that we can notify, and you may say in some cases should notify, a man who is handling milk that he is dealing with an unlicensed establishment. He does not know in some cases whether it has a license or not. We do.

Senator STEWART. Why not require all the milk to be taken to a licensed establishment and have that establishment clean, and have the milk distributed from there?

Doctor WOODWARD. We believe under this bill, which requires every place where milk is sold to have a license, and subjects all such places

to the restrictions imposed in the bill, that they would come up to the standard.

Senator STEWART. How will that reach all those fellows who are around here with one tuberculous cow, a most miserable looking thing. They do not have to be licensed as they are in the District. Now, a man comes along and collects milk from a dozen such places. Your inspectors tell me they have not any inspection over them, and could not exercise it if they had.

Doctor WOODWARD. The provision to which they refer is probably this: The police regulations of the District permit a man to keep one cow for his family use, and they provide that there shall be no restriction, we may say, on the sale of the surplus milk.

Senator STEWART. That is the very thing we want to have restricted, because they are generally tuberculosis cows. I can go around and find a dozen of them. The milk ought to be brought to a common place and thence distributed, so that you would know something about what is being done. Look over Senate bill No. 2402. It is very short. It provides, first:

That in lieu of the officers and sanitary inspectors who administer and execute the laws relating to dairy products in the District of Columbia, there shall be appointed by the Commissioners of the District of Columbia an inspector of dairies, to be known as chief inspector, who shall be an analytical chemist and familiar with the dairy business, who shall be under the immediate and direct supervision of said Commissioners, and who shall also have charge of such other analytical work as the said Commissioners may direct. And there shall also be appointed by the said Commissioners, on the recommendation of the chief inspector, 1 analytical chemist and 10 subordinate inspectors of dairies. And in lieu of the sanitary inspectors and veterinarians now employed for the inspection of dairies and dairy farms where milk is produced, there shall be appointed by the said Commissioners, on the recommendation of the chief inspector, 4 inspectors, at an annual salary of \$1,300 each, who shall be veterinary surgeons, and whose duties shall be performed at the dairies and dairy farms where milk is produced to be disposed of in the District of Columbia.

Would that be too large a force?

Doctor WOODWARD. No, sir; by no means.

Senator STEWART. It would not be too large?

Doctor WOODWARD. No, sir.

Senator STEWART. In your bill you have veterinary surgeons mixed up. What do you want with a veterinary surgeon outside of the farm where the cows are? The veterinary surgeon can not do anything with the milk.

Doctor WOODWARD. No, sir. I did not realize that there was anything in the bill which gave them any duty to perform outside of the farm, except that provision which provides that they may perform duties under the direction of the health officer when it will not interfere with their dairy work.

Senator STEWART. Is the health officer a practical dairyman?

Doctor WOODWARD. No, sir.

Senator STEWART. Have you ever visited these dairy farms?

Doctor WOODWARD. Frequently.

Senator STEWART. And examined them? Are you a veterinary surgeon?

Doctor WOODWARD. I have been there with the veterinary surgeons.

Senator STEWART. You have inspected the dairies in town?

Doctor WOODWARD. I have been with the men to some of the dairies in town.

Senator STEWART. Some of them?

Doctor WOODWARD. Yes, sir.

Senator STEWART. Not very many?

Doctor WOODWARD. Not a large percentage of the total number.

Senator STEWART. You have never had anything to do with treating milk? You are not an analytical chemist?

Doctor WOODWARD. No, sir.

Senator STEWART. Is not attending to milk a special business?

Doctor WOODWARD. Yes, sir; it is a special business, but it is a business very closely related to the health of human beings, and that is my particular line of work.

Senator STEWART. I am getting at clean milk.

Doctor WOODWARD. I understand.

Senator STEWART. We will take the chances on the health when we get the clean milk. What is the objection to the officers I have named?

Doctor WOODWARD. The restriction which provides that the chief inspector shall be an analytical chemist and be familiar with the dairy business is not in keeping with modern ideas of milk supervision. We are getting away, or have gotten away I may say, from the old idea that the condition of the milk as determined by chemical analysis is sufficient to indicate its wholesomeness. We must deal with the health of the cow and the cleanliness of the premises and utensils, things which the chemist can not determine by any known method.

Senator STEWART. Of course; but if he is familiar with the dairy business he should have some knowledge of it. Will it hurt him to be a chemist and to be familiar with the dairy business?

Doctor WOODWARD. No; it would not hurt him in the least.

Senator STEWART. If he had the executive ability?

Doctor WOODWARD. If he had the executive ability and knowledge of sanitary matters.

Senator STEWART. Oh, sanitary matters. It is a question of keeping the milk clean. We will take care of the sanitary matters.

Doctor WOODWARD. In addition to keeping it clean, as ordinarily understood, there is the question of the health of the cattle themselves.

Senator STEWART. It is unclean milk if it comes from an unclean cow.

Doctor WOODWARD. If the expression is broad enough to cover that—

Senator STEWART. It is broad enough, no matter from what source contaminated. An analytical chemist at the head of it, familiar with the dairy business, would be sufficient to attend to it, without supervising anybody except those under him.

Doctor WOODWARD. Yes, sir. One man can very readily spend his entire official time on it.

Senator STEWART. That is enough for him. The bill provides for an assistant chemist, who can do any work you wish to put him at in the department, and then it provides for four inspectors in the country. Four would not be any too many in the country?

Doctor WOODWARD. I should say they would not be enough.

Senator STEWART. Make it six.

Doctor WOODWARD. That would be a better number.

Senator STEWART. I think perhaps your suggestion is a good one.

Senator MALLORY. Those are six veterinarians?

Senator STEWART. Outside of the city, where the milk is produced. I think that is a good suggestion of yours, Doctor Woodward.

Senator MALLORY. Let me ask Doctor Woodward a question. Do

you think an analytical chemist as chief inspector is necessary? Do you not think you could get along with a man who is not an analytical chemist, but who is familiar with the dairy business and is a man of intelligence?

Doctor WOODWARD. My judgment is we could. One of the men in the country who probably is more familiar with the dairy business than anyone else is not an analytical chemist. I refer to Mr. Pearson, of the Department of Agriculture; and Major Alvord of that Bureau is not an analytical chemist.

Senator MALLORY. It strikes me you may have difficulty in finding a competent man who is an analytical chemist and is familiar with the dairy business, and that of the two things, familiarity with the dairy business is much more important than the mere ability to analyze.

Doctor WOODWARD. There would be trouble in finding a thoroughly satisfactory man to fill the bill in any case.

Senator MALLORY. I have no doubt of it—on that salary.

Senator STEWART. What salary is provided?

Senator MALLORY. Twenty-four hundred dollars, I think it is.

Doctor WOODWARD. I do not mean on the question of salary. There are comparatively few men who are competent to take right hold of that. There are comparatively few men like Mr. Pearson, for instance. He left the Department of Agriculture and went to New York with a company on a salary above what the Department of Agriculture paid him.

Senator STEWART. He would be a suitable man for the place?

Doctor WOODWARD. Most excellent; but he would not answer the description, my information is, when it calls for an analytical chemist.

Senator STEWART. Have you anybody in the Department who would fill the bill?

Doctor WOODWARD. The man who would fill the bill is Professor Hird. He is reasonably familiar with the dairy business in its various aspects.

Senator STEWART. I think you could probably find some one. How many inspectors will you have in the District according to this bill?

Doctor WOODWARD. Ten subordinate inspectors.

Senator STEWART. Ten subordinate inspectors. Are they enough?

Doctor WOODWARD. I think they are really more than is required, in view of the fact that you have the other men—

Senator STEWART. They are on the outside altogether. It takes a good many in the city to follow up unclean practices.

Doctor WOODWARD. That is true.

Senator STEWART. You have not been able to inspect anything in the city with the force you have?

Doctor WOODWARD. Not a satisfactory inspection.

Senator STEWART. You could not inspect at all. There were not enough of them.

Doctor WOODWARD. We have three.

Senator STEWART. They can not do anything?

Doctor WOODWARD. They can not make a satisfactory inspection.

Senator STEWART. I know what they are doing. They can not make a mark. I think you ought to have ten of them. However, if you think eight will do we will cut it down.

Doctor WOODWARD. I think eight will do with the six others. It maintains it at fourteen.

Senator STEWART. Perhaps that will do. It will make the general number the same.

Doctor WOODWARD. Yes, sir.

Senator STEWART. Now, section 2 provides—

That every place in the District of Columbia where milk is sold is a dairy within the meaning of this act. Every dairy shall be above ground.

They are now putting them down in holes where there is no ventilation. It is nasty. I can show you one near here which would make you sick. If you go down into the hole you want to get out pretty quickly. I have been down to look at it. There is not room to wash anything. It is down in a hole. There is no air.

Senator MALLORY. Let me ask the Doctor a question. Doctor, are there any dairies in Maryland which send their milk here in wagons, or are there any in Virginia which send across the bridge milk that is sold in the District of Columbia?

Senator STEWART. There are quite a number in Maryland.

Doctor WOODWARD. Quite a number.

Senator MALLORY. How would you control them?

Senator STEWART. By not letting them bring it into the District of Columbia unless they comply with the provisions of the bill.

Senator MALLORY. Are there provisions here for the veterinarians to go out and inspect the farms?

Senator STEWART. If they refuse to let the veterinarians examine their dairies, and if they refuse to comply with the rules they will not be allowed to sell the milk in the District.

Senator MALLORY. But there is no provision for that in this bill.

Senator STEWART. It is in the existing law.

Senator MALLORY. This bill does not provide for it. It provides for inspection in the District, but if the dairies are outside of the District and a man does not care to allow a veterinarian to go into his cow pen, he can refuse, and I do not see that there is anything in the pending bill to prohibit that milk from coming into the District.

Senator STEWART. If there is not, we will put it in.

Doctor WOODWARD. The existing law fixes it.

Senator STEWART. This is only to cure defects in the old law.

The bill provides:

Each dairy shall be above ground, and at least 15 feet from any stable, soap factory, or other building wherein any business injurious to milk is conducted.

There might be a wall between. From "the opening," I will put it.

Doctor WOODWARD. I would suggest that after the word "act" in line 23, page 2, there be inserted, so as to make any place where milk is sold a dairy, the words "within the meaning of this act and within the meaning of the licensing act." I can not cite the act exactly. The purpose is to require them to take out permits.

Senator STEWART. Say "and all laws now in force."

Doctor WOODWARD. Yes. And 15 feet seems to me to be a very short distance between a dairy and a horse stable. The odor commonly extends for a very considerable distance, especially when the atmosphere is heavy.

Senator STEWART. Some of them have the stable and the dairy so closely connected that they have to fill the bottles in the stalls. I have seen men do it.

Doctor WOODWARD. I did not know there was anything quite so bad as that.

Senator STEWART. Then I will say:

Of this act and all other laws now in force.

Doctor WOODWARD. Yes, sir.

Senator STEWART. Do you not think a dairy ought to be above-ground?

Doctor WOODWARD. Yes, sir; I think it should be.

Senator STEWART. There are not very many of them, but there are some in very dirty holes underground.

Doctor WOODWARD. It is a question whether it would be necessary to define what is meant by the term "above-ground." I notice in most of the laws regulating the condition of tenement houses that they make some provision——

Senator STEWART. I do not care about having it dug down at all. We can provide that it shall not be below the surface.

Doctor WOODWARD. Of the adjacent ground.

Senator STEWART. We can say that the floor shall not be below the surface of the adjacent ground. Then there is the opening. You think 15 feet would be too near. A dealer called on me the other day who is very much in favor of this bill; but he said he had a dairy, and some others had dairies, where the stables were right adjoining, but that there was a wall all the way between, so that no odors could come from them at all. I told him we did not care to interfere with that. Suppose we say 25 feet from any opening?

Doctor WOODWARD. That would be a fair distance, and certainly not too great.

Senator STEWART. Twenty-five feet from any opening.

This next clause you can not object to:

Each dairy shall have house room sufficient for cooling, preserving, and bottling milk, and also for the cleansing of bottles, cans, and all utensils of every kind used in the business.

Some of them have a place so small that they can not wash in it at all.

Doctor WOODWARD. Yes, sir.

Senator STEWART. They can not wash their bottles. That is one of the excuses they give for filling unwashed bottles in the street—that they have no room at the dairy to wash them.

Doctor WOODWARD. Yes.

Senator STEWART. So the dairies need room.

The bill continues:

No milk or other dairy product shall be brought into or sold in the District of Columbia which contains any foreign substance, whether such substance be used as a preservative, as coloring matter, or for any other purpose whatever.

Doctor WOODWARD. It is a question whether that term is broad enough to cover butter and cheese. The term "dairy product" might be so construed.

Senator STEWART. "Milk or cream."

Senator MALLORY. How about cream cheese?

Senator STEWART. I think they are attending to that now under existing law.

Senator HANSBROUGH. Does not the term "dairy product" cover all that?

Senator MALLORY. But he does not want to include cheese and butter.

Senator HANSBROUGH. I thought he did.

Doctor WOODWARD. I do not think you need the other, because ordinarily they do not color those articles. Of course there is no inducement, as to clabber or smearcase, as we call it, to add preservatives.

Senator STEWART. But they add preservatives to milk and send it all over the country?

Doctor WOODWARD. Yes, sir.

Senator STEWART. And it will poison children very quickly.

Senator MALLORY. Is there not some process of manufacture—I do not know what you call it here—applied, not to the dry smearcase, but to the clabber substance, whereby it is simply dripped so as to be pretty dry, and yet not so dry as cheese, and whereby adulteratives are put into it?

Doctor WOODWARD. I have never heard of people adulterating it.

Senator STEWART. The oleomargarine law prohibits the introduction of foreign substances into butter or cheese, or their coloring.

Doctor WOODWARD. That law does not apply to these products. It applies to oleomargarine, but butter can be colored as much as desired.

Senator STEWART. I guess this is a little too broad. We may as well confine it to milk and cream.

Doctor WOODWARD. The words "or cream" might be added with advantage in the other places where the word "milk" occurs.

Senator STEWART. We will put it in in those places.

Doctor WOODWARD. So that there shall not be any dispute as to whether "milk" includes "cream."

Senator STEWART. I again read from the bill:

Any person having in his possession for sale, or offering for sale, any milk or other dairy product containing foreign substances by this Act prohibited shall be guilty of a misdemeanor, and shall be punished by a fine of not less than twenty nor more than one hundred dollars or imprisonment for not less than thirty nor more than sixty days.

I think perhaps we had better make \$100 the minimum.

Doctor WOODWARD. I think that would be better.

Senator STEWART. The ones we want to get at are those who send the milk into the District. They are much the guiltier parties. They can be indicted, if they are found here, and brought to trial.

Doctor WOODWARD. Yes, sir. The method of proceeding against them now, is this: Under existing law permits are issued, subject to certain conditions specified in the law. If we find that they are not complying with those conditions they are notified to show cause why their permits should not be revoked, and unless cause satisfactory to the health officer is shown their permits are revoked and they are notified that they can no longer lawfully send milk into the District, and the consignee of such milk is notified that he must not handle the milk.

Senator STEWART. You have to get at it in that way, but I would have them indicted.

Doctor WOODWARD. If we can get at them. If it is made clearly to appear that it is unlawful to handle milk of that kind we shall have a very powerful remedy against the shipper.

Senator STEWART. Let them be subject to indictment by the grand

jury of the District of Columbia, and if they go out of the District we have laws to reach them through extradition.

Senator MALLORY. What is your interpretation of "foreign matter?" Does that include all kinds of things that should be kept out of the milk?

Senator STEWART. Yes; there should be nothing but the pure milk itself.

Senator HANSBROUGH. No dirt or water?

Senator STEWART. No dirt, water, or poisonous matter.

Senator HANSBROUGH. No formaldehyde?

Senator STEWART. It includes everything that ought not to be in the milk—everything that adulterates the milk.

Senator MALLORY. Do you not think we had better strike out line 17?

Senator STEWART. Yes.

Senator HANSBROUGH. How do you make it read?

Senator STEWART. "Any person sending any milk or cream into the District of Columbia for sale which contains foreign matter by this act prohibited shall be subject to indictment by the grand jury."

Senator MALLORY. Is that not an offense now?

Senator STEWART. "And shall be fined in a sum not exceeding \$500 or imprisoned in the county jail not exceeding sixty days, or both said fine and imprisonment, and shall be subject to indictment by the grand jury and trial in the District of Columbia."

Senator MALLORY. There ought to be a penalty specified.

Senator STEWART. Section 3 is—

That all milk or cream retailed in the District of Columbia must come from a regularly established dairy, and all bottles or other vessels used in retailing milk or cream must be cleaned in such dairy before used a second time.

That is the only way we can get at the milk that comes from these little shanties in the outskirts of the city and over the Maryland line, the occupants of which keep one or two very poor cows. Most of these people buy very cheap cows that are sick. A man engaged in this kind of dairy business will supplement his own stock of milk by procuring other milk, a gallon here or a half gallon there, in the early morning before daylight, and then deal it out in the city. I would not allow milk to be sold except from a regular establishment, over which the health department can exercise some supervision, and where the milk can be tested.

Senator HANSBROUGH. What about a system of inspection; do you not have milk inspectors here?

Senator STEWART. Yes; but it has been held that the existing law applies only to dairies, so that the inspectors can not inspect these small retail kinds of business to which I have referred. Nobody knows how many such small dealers there are in the District, but it is estimated all the way from 200 to 500.

Senator HANSBROUGH. Can you not give the inspectors authority to go into these small establishments and inspect the milk there?

Senator STEWART. It has been decided that, under the present law, they have not that authority, but we propose in this bill to give them that authority.

Senator HANSBROUGH. I have not read the first part of the bill.

Senator STEWART. The present inspection does not amount to anything in the cases of these small dealers. It would take a force of a

hundred inspectors to make the necessary tests, unless all the milk were obliged to be started out for delivery from some few well-known points. Take one of these fellows who starts out at 3 or 4 o'clock in the morning with a small quantity of milk in a one-horse wagon and he will smell an inspector farther than a dog will smell a coon. It is easy enough for him to avoid an inspector when he is running around distributing his stuff.

No bottles or other vessels used in retailing milk must be filled outside of a regularly established dairy.

Senator MALLORY. I suggest that "shall" is better than "must."

Senator STEWART. It is better.

Doctor WOODWARD. Why should not all vessels be properly cleaned before being used a second time?

Senator STEWART. The vessels that are brought in from the country are not refilled here; they are sent back to the dairies.

Doctor WOODWARD. A certain number of bottles are used every day in the wholesale trade.

Senator MALLORY. Why not say "selling?"

Senator HANSBROUGH. Or why not say "handling" instead of "retailing?" Would not that cover it all?

Senator STEWART. I think "handling" would be better.

Any person filling a bottle or other vessel with milk or cream outside of a dairy for delivery shall be guilty of a misdemeanor—

Senator HANSBROUGH. Let me call attention to the fact that that phraseology, "bottles or other vessels," occurs twice; you see it in line 21 and in line 23.

Senator STEWART. We want to emphasize that. That is very important. They have a regulation here now against refilling bottles, but it can not be made effective under the present arrangement with only three inspectors. A man goes out early in the morning and begins delivering milk in bottles, and as he delivers he picks up empty bottles that are left out for him; and then if he happens to have delivered all his bottles that were filled before he started, he fills from his cans these bottles that he has just picked up, which are nearly always filthy, and that can not be prevented unless he is watched.

When a bottle is filled in this way in the street there is sure to be some dirt that gets in the bottles from the street and from the hands and clothing of the man, because the passage of the wagon along the street is sure to have stirred up some dust, and then the slopping over of some of the milk in pouring from the can into the bottles will stir up some more, and germs besides, which get into the bottles and settle to the bottom. You may have noticed that if you let a bottle remain standing quietly for some time you can see the sediment and black particles at the bottom.

Senator HANSBROUGH. I have seen it when the bottle had not been standing longer than five minutes.

Senator STEWART. I think we had better allow that language to stand in order to make it more specific. Let it stand "no bottles, etc., shall be filled outside of a regularly established dairy," because they will dodge if they can.

Senator HANSBROUGH. But you see the language occurs twice, in lines 21 and 23.

Senator STEWART. We had better use the word "handling" there.

Senator HANSBROUGH. That covers everything.

Senator STEWART. "Any person filling a bottle or other vessel with milk or cream outside of a dairy for delivery shall be guilty of a misdemeanor and shall be fined not less than ten nor more than one hundred dollars, or imprisonment for not less than sixty days."

Senator HANSBROUGH. That is pretty severe punishment. Suppose my house servant should fill a bottle with milk?

Senator STEWART. But that is not "for delivery."

Senator HANSBROUGH. I suggest to make it \$50 and thirty days.

Senator STEWART. Make it "nor more than fifty dollars or imprisonment for not less than thirty days."

Any person who shall procure bottles or other vessels to be filled, outside of an established dairy, for sale or delivery shall be fined not less than one hundred dollars or imprisoned in the county jail for not less than three months.

Doctor WOODWARD. Might not that be construed so as to cover filling bottles by the householder?

Senator STEWART. Oh, no; that is not for delivery. This refers to "sale or delivery." The bottles must be filled for that purpose.

Senator HANSBROUGH. That is to break up the practice of "bootlegging," as we call it in our country.

Senator STEWART. Section 4 is:

That the Commissioners of the District of Columbia shall have power to make all rules and regulations necessary to carry this act and all other laws respecting dairies into full effect, and such rules and regulations shall have the force and effect of law.

There must be enough to carry it into effect.

Senator HANSBROUGH. I suggest to strike out "in force," in line 10, and insert it in line 11, so that it will there read "into full force and effect." Does not that make it better?

Senator STEWART. I think it does.

Senator MALLORY. Should there not be a penalty at the end of section 3, such as has been put in elsewhere?

Senator HANSBROUGH. It should be made very severe for the procurer.

Senator STEWART. Yes; it should be very severe for him. The poor man who actually commits the offense at the procurement of another is a very different kind of a man from the one who procures or compels it to be done.

Then it seems to me there should be another provision to cover the case of a man who delivers milk in any vessel except his own or which he has authority from the owner to use. I think that might stop the practice of stealing bottles, which is far too common. If they could not use any bottles except their own, that would do away, to some extent, with the motive for stealing bottles.

Doctor WOODWARD. There is a bill pending now for the registration of milk bottles, so that a dairyman may register his own milk bottles.

Senator STEWART. Suppose there were a provision here to guard it so that a man should not sell milk except in bottles that either belonged to himself or that he had the authority of the owner to use.

Doctor WOODWARD. I think that would be a wise provision. Every milk bottle should be properly marked.

Senator STEWART. That would throw the onus upon the dealer. If a man could not use the bottles of anybody else he would not have the motive to steal them.

Senator MALLORY. Mr. Chairman, I find that I will have to absent myself. I think I understand the object of the bill now.

Senator STEWART. I believe that is about all that is to come before us now. I believe there is some difference of opinion among the Commissioners in regard to having a man at the head of these inspectors. I do not believe that, with all the multifarious duties of the health officer, he could have practical supervision of this force if it were put in his charge. At the same time I do not want the bill so framed as to be any apparent reflection upon the ability of the health officer.

Doctor WOODWARD. There is a question whether, if the force were put in charge of a man directly responsible to the Commissioners, the force would be any more efficient than if it were under the health officer, because the duties of the Commissioners are also very multifarious.

Senator STEWART. Whoever is to be in charge of this force must have a strong hand, because the unclean dairymen will squirm.

Doctor WOODWARD. I am not bothered much about the refilling of bottles under the present system, because they know they gain so little by refilling. I would like to suggest a definite penalty about the handling of milk that comes into the District; and there is another provision that is important, and that is, if possible, to provide that the presence of a diseased cow in a dairy herd shall be prima facie evidence against the owner.

Senator STEWART. There are several provisions I have in mind that are not yet incorporated in the bill.

Senator HANSBROUGH. I think Doctor Woodward's suggestion is a good one.

Senator STEWART. I will carefully examine it, and it may be that I will offer another bill as a substitute for this. The health office can do a good deal by its rules and regulations. In regard to filling bottles outside of dairies, there must be an exception made where the bottles are filled at the farm.

Senator HANSBROUGH. Could not the Commissioners regulate that?

Senator STEWART. They rebel against it very hard. We must have some positive law. These fellows will say that it will ruin their business, and there is going to be great pressure upon us. I want some positive law, because some of these fellows are rascally. Milk is sold too cheap here. Clean milk is worth ten cents a quart at retail, and I think if that were the price it would be better even for the consumer, because he would get a better quality of milk. It is this milk that is brought in clandestinely that keeps the price down. I do not believe pure, clean milk can be put upon the market at these low prices.

Senator HANSBROUGH. Are there not several places in the District where the milk is pasteurized, as they call it?

Doctor WOODWARD. There is but little sale for that milk, I think. Not much depends upon the pasteurization of the milk.

Senator STEWART. I think pasteurized milk is certainly good for children, but it is impossible to furnish sufficient pasteurized milk for the use of the adults in the District. This article just handed me by Doctor Woodward says it ought to be heated for children. I know the use of raw milk is not good for babies. Clean milk is what we all want.

Doctor WOODWARD. After all, that is the important thing—to have clean milk from a healthy cow.

Senator HANSBROUGH. Then it does not need pasteurizing or anything else, if it is properly handled?

Senator STEWART. You will trust me to get this bill fixed up in proper shape?

Senator HANSBROUGH. Oh, yes.

Senator STEWART. The main thing is to get the right kind of a man for superintendent of dairies.

Doctor WOODWARD. The man should be competent for his work, should be held responsible for his work, and should be protected in his position.

Senator STEWART. That is what I want. I think I can fix the bill so that there will be no implied censure on the health officer.

Thereupon the subcommittee adjourned.

WASHINGTON, D. C., *February 4, 1904.*

The subcommittee met at 3 o'clock p. m.

Present: Senators Stewart and Hansbrough.

Also Messrs. J. W. Gregg, Corbin Thompson, S. R. Howner, George P. Farquhar, A. S. Trundle, C. R. Darby, J. B. Eager, and E. Clifton Thomas, representing milk dealers in the District of Columbia.

Senator STEWART. We want to take up with you gentlemen the various provisions of this bill, and get your views in regard to them. It provides:

That there shall be appointed by the Commissioners of the District of Columbia a superintendent of dairies, who shall be an analytical chemist and familiar with the dairy business. And there shall also be appointed by the said Commissioners, on the recommendation of the superintendent, one analytical chemist, who shall assist the superintendent of dairies and shall perform such other duties relating to his profession as may be required by the health officer of the District of Columbia. And there shall also be appointed by the said Commissioners six inspectors, who shall be veterinary surgeons, whose duty it shall be to inspect all places and dairy farms where milk is produced for sale in the District of Columbia. No person, firm, or corporation refusing to such inspectors free access to the premises to be inspected shall bring any milk or cream into the District of Columbia. There shall also be appointed by the said Commissioners eight inspectors whose duty it shall be to inspect all milk and cream brought into the District of Columbia for sale, and also to inspect all places within the District from which milk or cream is sold. The superintendent of dairies shall receive a salary of two thousand four hundred dollars per annum; the analytical chemist, two thousand dollars per annum; the veterinary inspectors of farms and places where milk is produced, one thousand three hundred dollars per annum each, and the District inspectors one thousand dollars per annum each. It shall be the duty of the officers herein provided for to execute the provisions of this act and all laws and regulations relating to the production and sale of milk in the District of Columbia, and for that purpose shall at all times have access to farms and other places where milk or cream is produced, to dairies from which milk or cream is sold, and to wagons and vehicles used in the business of distributing milk or cream. And the superintendent of dairies shall suspend the permit of any person who obstructs free access, at all hours of the day or night, to the officers herein named to his premises or property used in the business of producing milk or cream to be sold in the District of Columbia or of selling milk or cream in said District.

Mr. THOMPSON. I should very seriously object to getting up in the middle of the night to let an inspector into my place. Some of the present inspectors have made themselves so objectionable that if they should attempt to enter my place and act as they have acted in some

other places I would throw them out at the risk of losing my life, much less having my permit taken from me. They are objectionable and bulldozing.

Senator STEWART. How are they going to inspect if they can not get in at any time?

Mr. THOMPSON. This says "shall at all times have access." That means either during the day or the night. It seems to me they should only have the right to enter the place during business hours, not during the nighttime or any time they pleased.

Mr. TRUNDLE. I maintain a strictly bottling business. There is not a particle of milk sold from my place that is not bottled, and there is nobody in the world in charge there for more than two or three hours of the day while they are bottling, and three or four hours while they are cleaning up, washing the bottles, etc. I should object to being compelled to have a man there at all times to see the inspectors.

Senator STEWART. He is only going to come in there to see what is going on when there is business going on.

Mr. TRUNDLE. Then I would like to have that left out, for this reason. The milk men have been subjected to petty persecutions on the part of the inspectors until it has become exceedingly objectionable in many ways. That is one reason that I would like to see the salaries of these inspectors raised, so that they can get competent men.

Senator STEWART. There may be something in that; but if an officer abuses his trust, you can go and complain against him, and if you have a decent superintendent, the abuse will be remedied.

Mr. TRUNDLE. We have complained of some who are still in the business. A man who would go into a woman's place and call her a liar, and such things as that, is not fit to be a dairy inspector. There is such a man in the employ of the District at the present time.

Senator STEWART. You will find that same defect in any inspection system. You can not always get good men.

Mr. TRUNDLE. I would certainly like to have that modified.

Senator STEWART. Do you want it to provide that he can not get in the place at all?

Mr. THOMPSON. No, sir; it should be modified so as to provide that they shall make their inspection when the dairy is open for business—while we are conducting business.

Senator STEWART. While you are washing your cans, and so forth?

Mr. THOMPSON. Any time we are open for business.

Senator STEWART. Are you not open all night?

Mr. THOMPSON. No, sir. Very few of them are open all night. I do not know of more than one in town.

Senator STEWART. When do you do your bottling?

Mr. THOMPSON. We bottle whenever the milk comes in. My place is open all night; that is, my men are at work all night, but I guess my place is the only one in town.

Senator STEWART. What time do most of them bottle?

Mr. THOMPSON. They are bottling all day. As soon as the milk comes in it is bottled.

Senator STEWART. Not in the summer time.

Mr. THOMPSON. In the summer time we bottle it and put it into the ice house as soon as it comes.

Senator STEWART. We will pass that over. That is your objection to that?

Mr. THOMPSON. I do not object, on my part; but it seems to me it would be a hardship on those gentlemen who would have to get up in the night. I should make it read "any time the place is open for business."

Senator STEWART. Then, they would say the inspector had no right to come in because they were not open for business. That leaves it too much the other way. There is not much danger of these inspectors getting out very much before 9 o'clock in the morning, anyway.

Mr. THOMPSON. Then why put this in here?

Senator STEWART. Because some men might claim their places were not open for business, and refuse to admit the inspectors. Let us pass that over for the present, and see if there is anything more serious.

Sec. 2. That every place in the District of Columbia where milk or cream is sold is a dairy.

Mr. THOMPSON. That is class legislation. It does seem to me it will cut out a great many people who are handling milk, which it is almost essential for the housekeeper to have, and it would entail a great deal of trouble on us, because we would be eternally receiving telephone messages, and we would have to make extra trips all over town. This milk that is purchased in stores does not enter into the food of babies or infants. I know the theory of the matter, but it does not do that. It is extra milk that the housekeepers want during the day that they are not aware they will need when their milkman is there in the morning.

Senator STEWART. If we do not have some such provision as this, there is no use having inspections, because Doctor Woodward says there are from 200 to 500 places in the city where they sell milk.

Mr. THOMPSON. The grocery stores.

Mr. TRUNDLE. Why can not a well regulated grocery store sell milk as well as anybody else?

Senator STEWART. Because the milk gets mixed with vegetables and meat.

Mr. THOMPSON. They can provide an ice box. This is not an important matter to me. I do not want to be bothered with the trade, but I simply say it is class legislation.

Senator STEWART. It is to prevent the milk from being mixed with vegetables and such things as that.

Mr. THOMPSON. Lots of them have a very nice ice box where they can put it, but it does not concern me.

Senator STEWART. The milkmen generally assign that as a reason why the people do not have clean milk.

Mr. GREGG. There is no claim on my part against that.

Senator STEWART. Now the next provision:

All doors, windows, or other openings to any dairy shall be at least 25 feet from an opening of a stable, soap factory, or other building wherein any business injurious to milk or cream is conducted, and no opening to such stable or building shall hereafter be made within 25 feet of an opening in a dairy.

Mr. TRUNDLE. I would like to say in regard to that, Senator, that the opening for my dairy is less than 25 feet from a stable. It is, however, a good deal more than 25 feet from where my horses are kept. The stable is thoroughly drained and dried and concreted and is in perfect condition, and is swept with a house broom twice every day and washed down once or twice a week.

Senator STEWART. Does the door of your milk place come opposite to the stable?

Mr. TRUNDLE. They are not opposite at all. The place was built with a special view of convenience and sanitary arrangement.

Senator STEWART. If it does not come opposite, it would not be interfered with by this provision.

Mr. TRUNDLE. It is less than 25 feet from it. According to the law, they could make me go into court and spend \$50 or \$100 because the stable is less than 25 feet from the opening of the dairy, although I keep the place in perfect sanitary condition.

Senator STEWART. I do not care about that. State how the place is situated.

Mr. TRUNDLE. The back part of the stable fronts to the north. The dairy wall runs past that door [indicating], and then going up here and turning back again to the right is another place of entry. It makes the doors [indicating] come within less than 25 feet. There was some objection there by a man who has been shown to be incompetent in his inspection and his knowledge of dairies, etc. This place was afterwards inspected by a specialist on air circulation—

Senator STEWART. I do not care how it was inspected. I want to know how it is situated. You say the door of the dairy is less than 25 feet from the door of the stable?

Mr. TRUNDLE. Yes, sir; with an air shaft between.

Senator STEWART. With what between?

Mr. TRUNDLE. A regular air shaft, as it were.

Senator STEWART. I have seen places where the stench from the stable gets into the milk. We want to prevent that.

Mr. TRUNDLE. That is it, exactly. Then I would like to have this framed so that it will not interfere with people who have a sanitary place.

Senator STEWART. We have got to have some rule about what is a sanitary place, and if you have the doors opposite to each other, where horses are kept, of course your milk is going to be affected. Your doors are not right opposite to each other?

Mr. TRUNDLE. No, sir; but still it is within 25 feet.

Senator STEWART. Where is your milk kept?

Mr. TRUNDLE. It is kept in a room that is specially built for the purpose. If you would just allow me to state the facts—

Senator STEWART. I want you to state how the building is arranged.

Mr. TRUNDLE. The building is a square room, and the opening from the stable or wagon house does not come opposite this room. It is more of a wagon house than a stable. The stable is in one part and the wagon house in the other. The door that would enter in the stable does not come opposite this, but runs on past, and you enter from a different direction. You make your exit from the wagon house going north and you make your entrance to the dairy facing east. You would have to turn east to turn into the dairy.

Senator STEWART. And then come back?

Mr. TRUNDLE. And then come back.

Senator STEWART. That would be more than 25 feet, would it not?

Mr. TRUNDLE. No, sir; I think not. Now, what I would like to say is this. In order to show—

Senator STEWART. We want to see if you have a case that comes

within this provision. Just make a diagram of how your place is situated.

Mr. TRUNDLE. Would you allow me to show what has been done?

Senator STEWART. Make a diagram so that we can see whether this bill would interfere with your place. I do not care how much it has been inspected. Just make a diagram of how it is situated.

Mr. TRUNDLE. This is the stable [indicating]. There is the door going back to it. Here are some open steps here.

Senator STEWART. This is the dairy [indicating]?

Mr. TRUNDLE. Yes, sir.

Senator STEWART. Where is the opening to the dairy?

Mr. TRUNDLE. Right here [indicating]. This wall here passes on past this door and then turns in here [indicating].

Senator STEWART. You have not made a correct diagram.

Mr. TRUNDLE. I tried to do so.

Senator STEWART. You say the wall passes this door [indicating]?

Mr. TRUNDLE. It passes this door. That is an alley way, but there is no door goes in this alley way [indicating].

Senator STEWART. How far is it from there to there and then down and out here [indicating]?

Mr. TRUNDLE. From here to here is about 6 or 8 feet; from here to here is about 6 feet more, and over here about as much more, a total of about 15 or 18 feet. It just shows the inconvenience that a man can be put to.

Senator STEWART. Do not argue about it. Tell what it is and then see if we can not fit you. I am willing that should be 15 feet, and that will clear your place. Certainly nobody ought to have it nearer than that.

Mr. THOMAS. Our dairy runs up Fourteenth street back to the alley. Our whole ground floor is used for the dairy, and the stable doors of other people may open on the alley, or one of our doors may open on the alley. The doors then would be only 2 feet apart.

Senator STEWART. You ought not to have it there. If you have your opening there it may destroy your milk.

Mr. THOMAS. The milk may not be kept within 50 feet of the stable, but as far as the dairy is concerned you have to get a permit for the whole thing.

Senator STEWART. But you may have another room for your milk.

Mr. THOMAS. That does not say "room." It says "dairy."

Senator STEWART. Fifteen feet ought not to hurt anybody.

Mr. TRUNDLE. If you will allow me, the case of Mr. Thomas is an illustration of the objection I make. Here is Mr. Thomas's dairy and here is another man's stable here. They all open out in the alley.

Senator STEWART. Do not argue about it. State how the place is situated.

Mr. TRUNDLE. Here is the alley running along here [illustrating]. Here is Mr. Thomas's place, and here is another man here.

Senator STEWART. What do these other men do?

Mr. TRUNDLE. Mr. Thomas has built this place—

Senator STEWART. I have no time to hear you make a speech.

Mr. TRUNDLE. Here is a diagram of it.

Senator STEWART. Is this a dairy [indicating]?

Mr. TRUNDLE. No, sir.

154

Senator STEWART. Is that a dairy?

Mr. TRUNDLE. Yes, sir.

Senator STEWART. Is that a dairy [indicating]?

Mr. TRUNDLE. No, sir.

Senator STEWART. What is that?

Mr. TRUNDLE. I do not know what they are. May be Mr. Thomas would know. He can speak for himself.

Mr. THOMAS. At present; they are sheds, but people are just as apt to put up stables there as not.

Senator STEWART. But this provides they shall not do it.

Mr. THOMAS. We have no jurisdiction over what they shall build next to us.

Senator STEWART. This law prohibits it.

Mr. THOMAS. That they shall not build a stable?

Senator STEWART. Yes. The bill says "and no opening to such stable or building shall hereafter be made within 25 feet of an opening in a dairy."

Mr. THOMAS. That would affect the man, then, who is getting a permit to build; not the dairyman. If I were on the ground first and he wanted to build on his land he could not get a permit?

Senator STEWART. Not unless he put his opening 25 feet away from your dairy. So this makes provision against it being done hereafter. I am willing that it should be 15 feet, so that it can not possibly interfere with anybody. We will change that to 15 feet.

Mr. GREGG. I want to say that in my case I have a dairy room, and my stable adjoins really the dairy room, but I only use wagons in there. My horses are all upstairs on a cement floor. Now, how would it affect me?

Senator STEWART. That is a wagon room. It would not affect that at all.

Mr. GREGG. That is all right, then, as far as I am concerned.

Senator STEWART. The next provision is:

Each dairy shall have house room sufficient for cooling, preserving, and bottling milk, and also conveniences for the cleansing of bottles, cans, and all utensils of every kind used in the business.

They ought to have room to keep milk, etc.

Mr. THOMPSON. That is very good, but who is to decide?

Senator STEWART. The officers will have to decide it. The inspector will make a report on it, and then you bring in the superintendent and whatever they decide is final. Of course we presume somebody will be reasonable.

Mr. THOMPSON. It is to be hoped so.

Mr. THOMAS. But the law is so many cubit feet for each cow, and if they are to have so much space per gallon of milk as well, I do not know how they are going to decide as to room.

Senator STEWART. I do not know how they are going to decide.

Mr. THOMPSON. That is the trouble. It would leave something to higggle on.

Senator STEWART. There would be trouble anyway. A little dairy would want one thing and a big dairy another.

Mr. TRUNDLE. I submit it would be more reasonable to permit a man himself to decide as to the necessary room. He would know more about it than an inspector.

Senator STEWART. He might and he might not. Some of them

Mr. TRUNDLE. It seems to me it would be more reasonable to leave it to the judgment of the man who has to do it.

Senator STEWART. Then you might as well leave everything to him. Some of them will be reasonable and do it all right without any law.

Mr. TRUNDLE. Personally I would object very seriously to that, and I would like to know whether it is the sense of the meeting or not.

Senator STEWART. You can state what you think about it. You object to it?

Mr. TRUNDLE. Certainly.

Senator STEWART. I do not see how we can get around that. They must have room to do it.

Mr. TRUNDLE. I would like to hear if there are any other objections.

Senator STEWART. Does anybody else object to requiring sufficient room for storing and cleaning utensils and all that?

Mr. THOMPSON. I have no objection at all if it is left to a practical man. The thing is not objectionable if you can get a practical man to attend to it. That is the trouble.

Senator STEWART. The superintendent has to be an analytical chemist and familiar with the business of dairies.

Mr. THOMAS. It seems to me it leaves a pretty large loophole, though, for a man. He might have the power to require sterilizers, according to this construction.

Senator STEWART. It is nothing of that kind. It is his business to make the rules and regulations.

Mr. THOMAS. It says "and all utensils of every kind used in the business."

Senator STEWART. There must be a place for cleaning.

Mr. THOMPSON. I will cite an illustration. The inspector was in my place and found a little abrasion in the floor, and he required me to repair that in this zero weather. That is inconsistent. You can not work cement in this kind of weather.

Senator STEWART. If you have a reasonable superintendent and you go up and tell him about it, that would settle it.

Mr. THOMPSON. That is it. I do not see why they should send out such a man.

Senator STEWART. There is nobody you can go to now about a case of that kind. If you get a practical man and go to him, that would be all there is to it. Of course if you get a man of any sense he will not require you to lay cement in freezing weather.

Mr. THOMPSON. I only cite that as the kind of things we have had to contend with in the past.

Senator STEWART. The next provision is:

No milk or cream shall be brought into or sold in the District of Columbia which contains any foreign substance, whether such substance be used as a preservative, as coloring matter, or for any other purpose whatever.

Mr. THOMPSON. That is really covered by the pure-food law. I do not object to it here, but there are three or four laws to be observed, and if this should become a law, we would like to have repealed everything in conflict with it.

Senator STEWART. It will repeal everything in conflict with it. The next provision is:

Any person having in his possession for sale, or offering for sale, any milk or cream containing foreign substances shall be guilty of a misdemeanor, and shall be punished by a fine of not more than \$100 or imprisonment for not more than sixty days.

Mr. THOMPSON. Under that provision you could arrest me three hundred and sixty-five days in the year, pretty nearly, because we have to condemn milk every day, especially in the summer time.

Senator STEWART. You do not condemn it because it contains any foreign substance?

Mr. THOMPSON. But we condemn it for some purpose. We condemn it for different purposes, you know.

Senator STEWART. Then you would not have it in your possession for sale?

Mr. THOMPSON. We would have to set it aside until the proper time to return it.

Senator STEWART. But you would not have it in your possession for sale. This provision says:

Any person having in his possession for sale, or offering for sale.

Mr. THOMPSON. They take it as prima facie evidence, if it is in your place, that it is there for sale. The court has so held, and it is the most ridiculous thing I ever heard of.

Senator STEWART. That is a ridiculous holding.

Mr. THOMPSON. It is. It is those little things we want to avoid.

Senator STEWART. Of course, if you have condemned the milk and do not have it for sale, you are not guilty under this law.

Mr. THOMAS. But all that comes out in the newspapers, and it is pretty hard to compel a man to go to court and deposit collateral and all that sort of thing.

Senator STEWART. There is a difference between your having it set aside and your having it for sale or selling it.

Mr. THOMAS. Some of us have skimmed milk.

Senator STEWART. That would be different. No decent officer would find any fault with you for that.

Mr. GREGG. That is what they did with me a long time ago.

Senator STEWART. They are not doing it now, are they?

Mr. GREGG. No, sir. In my dairy room where I am selling milk I have had for years three cans. One is marked fresh milk, the next one skimmed milk, and the next buttermilk. They came in there and wanted samples of this milk, and my man said to them, "This is fresh milk, this is skimmed milk, this is buttermilk." They took milk out of this can and analyzed it and found it to be skimmed milk, and I paid \$5 for it.

Senator STEWART. The fellow who did that ought to have been made to pay a hundred dollars and go to jail.

Mr. GREGG. I know, but that is the great trouble.

Senator STEWART. It is not to be expected that the officers will be such fools and rascals as that.

Mr. GREGG. But they approved of it down there and thought they had done something pretty good.

Mr. THOMPSON. Can you not arrange that in some other way, Senator? I do not want to loosen the hold of the law on us entirely, but I want to make it reasonable.

Senator STEWART. We might leave out "having in his possession for sale" and say "any person offering for sale any milk or cream when it contains foreign substances."

Mr. FARQUHAR. The man might be perfectly innocent. Could you not say "any person knowingly?"

Senator STEWART. If you put in the word "knowingly," he can clear himself all the time.

Mr. FARQUHAR. It is a matter for the court to prove whether he is guilty.

Senator STEWART. It ought to be a prima facie case, because they can not prove that he knows it. He can swear he did not know it, and that will clear him.

Mr. FARQUHAR. I had some trouble with milk running way below the standard.

Senator STEWART. I do not care about the standard. I think this standard business is a farce.

Mr. FARQUHAR. I think it is a pretty good thing, too.

Senator STEWART. It may be a good thing, but I will leave the law as it is. I have not touched that.

Mr. FARQUHAR. But this would have exactly the same bearing. A dealer is liable to sell milk that has some foreign substance in it, and not know it.

Senator STEWART. There is uncertainty about the standard. If they get milk from the bottom of a can after it has stood an hour or so it will be below the standard, while that taken from above will be above the standard. That is because it is not properly mixed. There is a great deal of uncertainty and injustice in taking these samples. I do not think they are very reliable, but there is nothing in this bill in regard to that matter.

Mr. GREGG. The fine of \$100 seems excessive.

Senator STEWART. It says it shall not exceed that.

Mr. GREGG. But they always go to the top notch. If they could get a case against a man they would go to the top notch every time, and that fine would break up every little man. If it is the intention to break them up it will do it all right.

Senator STEWART. I am willing that it should be \$50 or \$25.

Mr. THOMPSON. I want to have it arranged so that if the man is doing wrong he may be heavily fined. The fine ought to be \$250 if he is knowingly doing wrong, but if he is doing something and is unaware of it, I do not think he ought to be punished. I think it should say something about "milk prohibited by law."

Senator STEWART. That would be too vague. We want to get at these adulterations which are put in.

Mr. THOMPSON. That is so well covered by the pure-food law that it is a hard matter to improve on it, unless you repeal the pure-food law.

Senator STEWART. We want it in one little place where we can get at it.

Mr. THOMPSON. They are bringing their suits now under the pure-food law. The milk bill is a back number.

Mr. TRUNDLE. I would like to say in regard to this matter, and as a direct illustration of it, that a short time ago a man had some milk in his wagon that had stood overnight and become soured. The inspector went to his wagon and demanded a sample of milk. He was told what the milk was and that it was not for sale, and he took this man into court because he refused to sell him the milk, and the judge of the police court held the man was guilty. There was a man who was obliged to be fined one way or the other for selling milk.

Senator STEWART. That was a hardship in administration. You ought to have had the satisfaction of knocking him over the head.

Mr. HORNER. We can not stand the notoriety, Senator.

Senator STEWART. We want to prevent the selling of adulterated milk or milk with foreign substances in it.

Mr. DARBY. The suggestion is, then, to eliminate this clause, "having in his possession for sale," and have it read, "any person offering for sale?"

Senator STEWART. Yes; we are willing to that, and we are willing to make the penalty \$50 instead of \$100.

Mr. DARBY. That would not make any difference. We would not desire to mitigate the penalty any.

Senator STEWART. Very well. The next provision is:

Any person sending any milk or cream into the District of Columbia for sale which contains foreign matter shall be fined not more than \$500 or imprisoned not more than sixty days, or both such fine and imprisonment, and shall be subject to indictment by the grand jury and trial in the District of Columbia. In case any person so indicted shall not be in the District of Columbia he shall be regarded as a fugitive from justice, and the Commissioners of the District of Columbia shall demand of the proper authorities of such State or Territory where he may be found that he be delivered up and brought to the District of Columbia for trial in the manner provided by law in other cases.

There are men sending milk here from New York and New Jersey and Ohio, and they doctor it up with chemicals so that it will keep a month without rotting. They send that in, and it interferes with your business.

Mr. THOMPSON. It is almost essential for us to get milk outside. I am getting from New York some of the best cream I have handled for many a day.

Senator STEWART. Undoubtedly.

Mr. THOMPSON. Washington has a population so fluctuating that it is almost impossible to provide for it without going outside.

Senator STEWART. But can they not send pure milk?

Mr. THOMPSON. Yes, they can send pure milk, and if they knew the law they certainly would not deliberately violate it. They are responsible men, you know.

Senator STEWART. This law will apply to those men when they send milk here containing foreign matter. There would be question, if we did not put it in the law here, whether we could bring them into the jurisdiction for trial.

Mr. GREGG. Sometimes when we apply to these out-of-town people for milk they say they can not ship milk here because the law will not allow them to. I have no doubt I would get just as good milk from them as I get from my own farm right here, but it would cost more money. I can not afford to do it only in a time of great scarcity.

Senator STEWART. How would the law prevent those men from sending it here?

Mr. GREGG. For the little extra milk that we call on them for, and occasionally cream, no dairyman could take the chance of paying a fine of \$500. He could not tell whether he would be subject to the law or not. Even if he thought he was doing it all right, perhaps the dairyman who sends it would get it from somebody who was not doing it exactly right. It may be that it would be good for us to shut them out. I will not object to that.

Mr. THOMPSON. It would be a hardship on the hotels and other people who get the outside milk.

Senator STEWART. If the hotels had to buy from you it would not be any hardship to you?

Mr. THOMPSON. If we did not have it it would be.

Senator STEWART. The health officers all tell me, those who have had any experience, that there are a great many children poisoned by what is sent here by persons who have no interest in the District.

Mr. THOMPSON. With all due respect to the health officers, their information is not correct. There is not a producer represented here to-day, and it is a clause that affects them very much.

Senator STEWART. It does not affect the producers that are near at hand. They have to get permits. This provision does not affect the individuals who send in pure milk.

Mr. THOMPSON. But they can not do it without a permit.

Mr. DARBY. The question of a permit is not involved in this connection.

Senator STEWART. No; it is only the man who sends in foreign substances in his milk. He is the man who would be guilty under this provision.

Mr. THOMPSON. It would be if he would send it in. Any man sending it in would be amenable to the law.

Senator STEWART. Certainly; he ought not to send in poisoned milk. I am told formaldehyde is used. When the milk commences to decay, that is the time they say it will poison children.

Mr. THOMPSON. Of course I just have to go back to the pure-food law again. That covers the whole thing.

Senator STEWART. It will not do any harm to have it here.

Mr. TRUNDLE. I desire to say that the investigation conducted on the part of the health department as to the milkmen poisoning babies did not show that this was the case. It showed that four times as many babies died when they had been fed on boiled and sterilized milk as when they had been fed on milk in its natural condition.

Senator STEWART. I have pasteurized milk and done all that, and it may be that it is well for sickly babies to have pasteurized milk or milk that has been heated. I know physicians generally think that it is a good thing for delicate babies, but I do not think it is any better than clean fresh milk from the cow.

Mr. GREGG. I think the Commissioners have changed their minds on the question of sterilized milk. Doctor Woodward told me so. They did talk sterilized milk, but they got over it.

Senator STEWART. Doctor Woodward showed me an article in a magazine the other day which stated that milk ought to be heated for children, and he said he did not take a great deal of stock in it himself, although he gave it to me to read. That may be; but the great thing is to have it pure.

Mr. THOMPSON. That is the whole thing, the cleanliness starting right in the stable. There is nothing we can do here at all.

Senator STEWART. You can keep it cool.

Mr. THOMPSON. Yes; we can keep it cool and clean; but very few men are going to take the milk from the cow and let it get dirty. It does seem to me that might be changed in some way. There is a way to get at these people when they bring this stuff in here.

Senator STEWART. It is pretty hard to get at them.

Mr. DARBY. I do not see any occasion to make it more lenient on the people outside than on the people offering it for sale; but I want to say I notice a change in the phraseology of that clause. The clause we passed over says "milk or cream containing any foreign substances," and here it says "milk or cream containing foreign matter." I do not know that there is any difference.

Senator STEWART. We might as well use the same word. There was no object in changing the word. We will use the word "substances."

Mr. TRUNDLE. If he appoints a bacteriologist the bacteriologist will find substances in everything.

Senator STEWART. They are not going to appoint any bacteriologist if I can prevent it, nor any psychologist, or anything of that kind.

Mr. THOMPSON. Would it be any use to say there that this does not apply to people with a permit? We have got to do something to encourage our producers, Senator. The best of them are going out of business. Unless they get some encouragement capital will never go into the business.

Senator STEWART. Milk is sold too cheap in this city. You can not retail milk at 8 cents a quart and have it good.

Mr. THOMPSON. It has been done.

Senator STEWART. It has been done, but you ought to fix your price right off at 10 cents and let this bill pass.

Mr. TRUNDLE. For some years past there has been an effort to form a trust to sell milk in Washington City, and efforts have been made, and arrangements have been made to bring milk here from the States of New York and Pennsylvania and Maryland, but it has not amounted to anything.

Mr. THOMPSON. I am serving a good many hotels. You take a big hotel and they want 10 gallons of cream to-day and 40 gallons to-morrow, and in order to cater to them a man has to carry an unlimited supply of cream, which is perishable stuff. You can lose \$100 in a few days, before you know it. You take such a time as we have had now for the past three months—it is almost impossible to get 10 gallons of cream over and above your trade.

Senator STEWART. But they can send clean milk.

Mr. THOMPSON. They can send clean milk.

Senator STEWART. Any man can ship milk into the District here, but he can not send in anything that has foreign substances in it.

Mr. THOMPSON. I venture to say that in New York they handle as nice milk as anywhere in the country. All I want is that these people can ship the milk here.

Mr. GREGG. In relation to the New York cream, some time ago I was talking to the head of a dairy there, and I said to him, "What do you people do to keep this cream? When we get it it is really better than cream that we get out on the farm here. What do you do with this cream to take care of it?" I accused him of putting something in it to keep the cream. He said, "We don't do anything of the kind. The whole secret of the thing is that when it is milked on the farm it is cooled as soon as it is milked, and put into a dairy and taken care of from that time out. That is all the secret there is to it;" and I rather believe what he said.

Senator STEWART. I was over in Europe and made some inquiries in regard to that from men who had been in Paris, and all that. They

took milk from Holland to England. I asked one of them how they could keep it pure so long. It takes about twelve or fourteen hours by steamer, and there would be steamer loads of it going from Holland to England. I inquired of several of them how they kept this milk pure. I said, "do you put anything in it?" They said no. Then I went to their dairies and found that the places where they milked were clean. They either milked the cows in a dairy that was clean, or the girls would milk them out in the field. They said all that was necessary was to cool it down when they milked and keep it clean.

Mr. THOMPSON. You can keep it a week or two weeks at a temperature of 40 degrees. There is no trouble in the world in doing so.

Mr. DARBY. Clean and cool?

Mr. THOMPSON. Clean and cool.

Senator STEWART. I will tell you one of the things that makes you have to sell the milk cheap here. If you go out to one of the suburbs of the city and look about, you will find little shanties, of very poor colored people, where they have bought poor cows, for nothing almost, and they have a gallon and half a gallon here and there, and a man brings that milk in and distributes it. There is no inspector to look after those things, and it is a dirty kind of milk which they furnish, cheaper than you can sell it. They just milk it and send it right in.

Mr. GREGG. And they will find plenty of people who will take that milk in preference to the best milk from the country.

Senator STEWART. This bill will prevent that. The milk under this bill must be distributed from a dairy, and those people can not come in with it. That, you will find, will enable you to put a better price on your milk.

Mr. THOMPSON. Do you mean a man can not sell milk directly from the farm?

Senator STEWART. No; he can not. He has to put it in a dairy, right here in the city.

Mr. EAGER. I would like to ask a question in regard to that. When my wagon comes in from the farm we sell 5 or 6 gallons of milk at Brookland coming into the District. Some of those customers lived in Washington, but they moved to Brookland. Have I got to bring my milk in to the dairy and store it here before I take it back?

Senator STEWART. Can you not have a dairy out there?

Mr. EAGER. No; it would not pay me. I have a dairy at my farm, but not in Brookland.

Senator STEWART. This provision refers to "a regularly established and licensed dairy or dairy farm."

Mr. EAGER. I understood the milk could not be served unless it was brought into the District and stored here.

Senator STEWART. No; if you have a licensed dairy farm you can do that.

The next provision is:

SEC. 3. That all milk and cream retailed in the District of Columbia shall come from a regularly established and licensed dairy or dairy farm licensed to sell milk in the District of Columbia.

I want to hold somebody responsible. They should not be allowed to distribute milk from an old, consumptive cow.

Mr. THOMPSON. That cuts out entirely the clause we have just been debating—"that all milk and cream retailed in the District of Columbia shall come from a regularly established and licensed dairy or dairy

farm, licensed to sell milk in the District of Columbia." That would make it neutral. It would cut that whole clause out. You could not get the milk from a creamery or anywhere, and the creameries are going to be the means of producing milk to furnish the city of Washington inside of ten years.

Senator STEWART. Why can we not do as they do in New York?

Mr. THOMPSON. In New York State 90 per cent of the milk that comes into the city is furnished by creameries, some of them as far as 250 or 260 miles outside of New York City.

Senator STEWART. Why can they not do that in Washington?

Mr. THOMPSON. They could; but it would certainly be out of the jurisdiction of our inspectors.

Senator STEWART. Oh, no; a man could be sent out to them. They could all get permits here with very little trouble. There would not be more than a dozen of them sending milk here, and you could just tell them to send down here and get a permit. They would not even have to come here to get it.

Mr. DARBY. Is not the question of a permit fully and adequately covered in the statute?

Senator STEWART. Yes; we are not changing it at all.

Mr. THOMPSON. How would it do, then, to eliminate that, "or dairy farm licensed to sell milk?" This is intended to regulate the sale of milk in the District of Columbia.

Mr. DARBY. The question of a permit and the shipping of milk are covered by another statute altogether.

Mr. THOMPSON. That, if I understand it, will be cut out when this becomes a law.

Mr. DARBY. This would not repeal that statute.

Senator STEWART. The object of this is to prevent the sale of milk in groceries and stores and also to prevent the selling of milk, without inspection, from the scattered cows right around here in the District. That is the great source of poison in the District.

Mr. THOMPSON. Would not my suggestion reach that exactly, by requiring it to be sold from an established and licensed dairy in the District of Columbia?

Senator STEWART. No; that would be too limited, because some of them bottle the milk and it comes directly.

Mr. TRUNDLE. I do not see why that provision should be in there at all.

Senator STEWART. You would not have these sick cows here without any inspection at all. How would you stop that?

Mr. TRUNDLE. By our inspectors here.

Senator STEWART. They would have no right to restrict them unless you give them some law.

Mr. TRUNDLE. You provide for veterinary inspectors here.

Senator STEWART. That would not do it.

Mr. TRUNDLE. I would like to say, as far as these poorly fed cows are concerned, if you find tuberculosis in a lot of cows it comes from large dairies where the cows are blooded. I have seen blooded cows that have been bred to give great flows of milk, and the cow has been overfed to do that.

Senator STEWART. Do not go too far in that direction. In two hours I can find tuberculosis in the cows at one of these places I speak of outside the city:

Mr. GREGG. Yes; you can find some young cows with tuberculosis.

Senator STEWART. And you can find it particularly where they are poorly fed, around the shanties, and that we want to get at.

Mr. GREGG. If they are neglected, and left out in the weather, that will bring it on.

Mr. DARBY. In my judgment, Senator, and to the extent of my knowledge, this is the only clause anywhere that does protect the man who comes into Washington and goes to the expense of establishing a place and paying Washington rents and Washington clerk hire in his business, and it would be very disastrous to our business if this clause does not go through, leaving out the phrase there "or dairy farm licensed to sell milk in the District of Columbia."

Senator STEWART. We have got to have that in to accommodate our friend here.

Mr. DARBY. He has a license in the District of Columbia to sell milk.

Senator STEWART. But we want to get milk in a dairy here, or on a dairy farm which is licensed to sell it. Then we can go to that dairy farm and see that everything is all straight; but I suppose there are 150 places around the town here that you would hardly want to go and see, they are in such a condition. You would not want to look at them. I do not want that kind of milk to be sold in the District.

Mr. DARBY. That is just my idea. I am not quite able to make it clear, I suppose, but that is my idea, to shut out that kind of competition, because there is no other guarantee or protection.

Senator STEWART. You had better leave that clause as it is.

Mr. DARBY. To leave it as it is, lets them in, sir.

Senator STEWART. How does it let them in?

Mr. DARBY. I am sorry to say, if a dairy farmer is licensed he will run in and he can get a license.

Senator HANSBROUGH. He comes under the operation of the latter part of section 2, which says:

Any person sending any milk or cream into the District of Columbia for sale which contains foreign matter shall be fined, etc.

Senator STEWART. You could get at him then. You would not give him a license.

Mr. DARBY. But I want to prevent him from selling milk at retail, because he can not be inspected like I can be inspected. He can not be supervised like I can be supervised.

Senator STEWART. If a man living in a negro shanty, with a poor cow that is consumptive and half fed, can come here and get a license we might as well give it all up; but they will not get a license.

Mr. DARBY. He could not get a license anyhow.

Senator STEWART. But he is selling it here now.

Mr. DARBY. Yes, sir; and there is no protection. There is one thing we ought to be protected against.

Mr. THOMPSON. But there is no protection against the fellow who wants to do the business cheap now. Even though he has not consumptive cows, if he lives out 8 miles or so, he has four or five cows and comes in and sells at retail. He does not pay Washington rents and Washington clerk hire, and there is no supervision of the health department over him.

Senator STEWART. But we have provided for more inspectors. He will be inspected carefully out there. We provide for a bigger force of inspectors, so that it can be done.

Mr. HORNER. Would it not overcome the difficulty if we have a license here and require a dairyman to pay \$200 to get a license?

Mr. DARBY. It would be rough on the poor. Does not this protect us—"from a regularly established and licensed dairy?" The words "or dairy farm license" have no restriction at all. One counteracts the other.

Senator STEWART. The farm would have to be supervised.

Mr. EAGER. Under the present law I have to have two permits, one permit to bring it into the District from the farm and another one to sell it in the District.

Senator STEWART. It would be all right to have somebody watch you out there?

Mr. EAGER. Oh, yes; occasionally.

Mr. GREGG. Are you inside the District, Mr. Eager?

Mr. EAGER. No; I am in Maryland.

Senator STEWART. Suppose we go on to the next provision.

Mr. DARBY. You will not consider the elimination of that clause then, Senator?

Senator STEWART. I do not want to see that eliminated.

Mr. DARBY. It would be a great protection to us. We have no protection without it. The bars are down if that clause is in there.

Senator STEWART. If you did not let them fill their bottles out there—

Mr. DARBY. This would not prevent the filling of the bottles out there, Senator, eliminating that clause. I want them to have an established dairy in Washington.

Senator STEWART. They have a permit to sell here. That really refers to the Walker-Gordon people. They have a place up on Connecticut avenue and they have a farm also. It really would not hurt them.

Mr. DARBY. We have to pay increased rents, increased clerk hire. We have to be subject to additional supervision and more exacting rules and regulations. Why should there not be some restriction?

Senator STEWART. What is the general opinion? I want to see what the general sense is. What do you think about it, Mr. Hansbrough?

Senator HANSBROUGH. I am convinced it should remain in because it would allow a man who is selling pure milk to come in the District and sell it, and that is what we are after—pure milk, whether it is sold from a dairy or a dairy farm.

Mr. THOMPSON. The common law, I do not believe, could stop them from coming in.

Senator STEWART. I think we will have to let it stand.

Mr. THOMPSON. It has been held here that a man producing stuff can come in here and sell it without a license if he produces it himself.

Senator STEWART. We can make him pay a license on account of cleanliness.

Now, the next provision:

All bottles used in handling milk or cream must be cleansed in such dairy or dairy farm before used a second time. No bottles used in handling milk or cream shall be filled outside of a regularly established dairy or licensed dairy farm.

There is no objection to that. The next is:

Any person filling a bottle with milk or cream outside of a dairy or licensed dairy farm for delivery in the District of Columbia shall be guilty of a misdemeanor and shall be fined not more than fifty dollars or imprisonment for not more than thirty days.

Mr. EAGER. Would that apply to people furnishing their own bottles? Very often a person comes out to the wagon and wants the bottle filled from the wagon into their own receptacle. This provision would bar that, would it not?

Senator STEWART. No; it would not.

Mr. EAGER. It says no bottles can be filled except at the regularly established dairy or licensed dairy farm.

Senator STEWART. It would not be necessary for him to come with a bottle. He could come with a pail or a pitcher.

Mr. EAGER. They often bring a bottle.

Senator STEWART. Let him bring a pitcher and fill the bottle when he gets in the house.

Mr. TRUNDLE. I will say in regard to that that a great many people want the milk put into their own bottles, and they do it for the reason that they say they do not want bottles that are lying around with other people's bottles. They bring their bottle right to your wagon. That does not happen in my own case, but I know it does happen.

Senator STEWART. I do not think those cases amount to anything. They can take a pitcher. They can get around that all right.

The next provision is:

Any person who shall procure bottles to be filled with milk or cream outside of an established dairy or licensed dairy farm for sale or delivery in the District of Columbia shall be fined not less than one hundred dollars or imprisoned for not less than three months.

We want that thing stopped.

Mr. THOMPSON. Suppose an employee does this against the instructions of the employer; who would be responsible?

Senator STEWART. The person who does it is responsible.

Mr. THOMPSON. It seem to me it puts the burden on the employer, though. For instance, I start my men out and give them explicit instructions not to bottle any milk, and if they deliberately do it I think the fine would fall on me.

Mr. GREGG. It is on the driver. That is what I like about it.

Mr. THOMPSON. The employer is always held for the acts of the employee, in all cases. It seems to me that ought to be fixed.

Senator STEWART. There is a penalty on the fellow who does it.

Mr. THOMPSON. It would leave the matter open to litigation.

Senator STEWART. I do not think it would be on the employer unless he procured it to be done.

Mr. THOMPSON. What precedents I have, Senator, have certainly been in that way.

Senator STEWART. Do you think they are doubly liable?

Mr. THOMPSON. No; but I think it would fall on me and not on my employee.

Senator STEWART. It would be only our employee if he does it against your orders.

Mr. GREGG. This says, "Any person filling a bottle." If he fills the bottle he would be guilty of a crime; but the fine of \$50 would shut the drivers out. No drivers are going to run the wagons on the street with any such fine as that on them.

Mr. THOMPSON. They could not collect it out of the driver.

Mr. GREGG. They can imprison them, according to this, for thirty days.

Senator STEWART. They could not prove that you ordered it to be done. They cannot prove it on you at all.

Mr. FARQUHAR. Suppose you are running a dairy here in town and a person from outside brings one of Mr. Thompson's bottles to you, for instance, and wants a quart of milk; are we to take that bottle and wash it and sterilize it, when it apparently looks clean? Suppose one of the inspectors was standing in the store at the time, and we filled up that bottle; are we liable then?

Senator STEWART. A dirty bottle?

Mr. FARQUHAR. No; one that is apparently clean, but we do not know that it is. We do not know that it has been washed in a regularly established dairy.

Senator STEWART. What business has he with Mr. Thompson's bottle?

Mr. THOMPSON. It might be one of my customers.

Senator STEWART. Might be? That is too far off.

Senator HANSBROUGH. This distinctly says "outside of an established dairy or licensed dairy farm."

Mr. THOMPSON. I see. The object is to cut out filling bottles on the wagons.

Senator STEWART. The next provision is:

No dealer in milk or cream shall use bottles or other vessels belonging to any other person or company without the written consent of the owner first had and obtained. If any dealer in milk or cream shall use bottles or other vessels belonging to any person or company without the written consent of the owner thereof he shall be fined in a sum not more than \$50, or imprisoned for not more than thirty days, or both such fine and imprisonment.

I think you will find that a great protection.

Mr. THOMPSON. That would require us at all times to have a man who can read and write at the bottle tank and bottle filler. I have just had some experience in that. My instructions were that if they struck one of Mr. Thompson's bottles, they were to set it up on a shelf; but some time ago we hired a couple of men to wash bottles and neither one could read or write. The result is the bottles went over and over.

Senator STEWART. You get a good many bottles?

Mr. THOMPSON. I do, indeed.

Senator STEWART. Do you not think it would pay to keep a man who could read and write to sort them out?

Mr. THOMPSON. That would not do any good.

Senator STEWART. But you would be able to catch the other man.

Mr. THOMPSON. I will say to you that I will adopt any measure in the world to save my bottles.

Senator STEWART. I think this has a tendency to do it. It makes it an offense to use bottles belonging to any other person.

Mr. THOMPSON. There has to be some law to reach it, of course.

Senator STEWART. Of course, if you have the defense of an accident the court will let you off; but I think we ought to get at the fellow who is using other people's bottles, because there are plenty of them who do not buy bottles at all. I am not in the milk business, but I know how it goes.

Mr. THOMPSON. I am sorry I am in it, as far so the bottle business is concerned, because I have unloaded three car loads of bottles since the 15th of October, and I think I have not half a car load now in storage.

Senator STEWART. I know it is a great loss, and we ought to provide against people stealing bottles and using them.

Mr. TRUNDLE. I am so much in favor of this provision, that I would like to see it put into a separate bill, and made stronger. This is a bill to provide people with clean, wholesome milk, and I would like to see that provision struck out and put into an entirely separate bill.

Senator STEWART. This is not a long bill, you see. Some of those that come from the Departments will be twenty or thirty times as long as this.

Mr. TRUNDLE. That is the objection to this. It is too long.

Senator STEWART. You do not know much about legislation if you want to get a good many bills.

Mr. TRUNDLE. I do not want many. The brevity of the thing is the beauty of it. If you would put a fine of \$250 on a man who would sell impure or unwholesome milk in the District of Columbia you would be doing the right thing.

Senator STEWART. Do you object to this bottle clause? We have that under consideration now.

Mr. TRUNDLE. I would like to see it made stronger and put into another bill. It has nothing to do with whether milk is pure or wholesome.

Senator STEWART. It is harder to get two bills than one. It is in this bill now, and if there is nothing objectionable in it we will keep it in.

Mr. TRUNDLE. There is nothing objectionable, except that it is not strong enough.

Senator STEWART. The next provision is:

No permit to bring milk or cream into said District, or to sell milk or cream in said District, shall be granted to any person who is not prepared to conform to the provisions of this act before making application for such permit, and no person now holding a permit to bring milk or cream into the said District, or to sell milk or cream in said District, shall continue in the business more than sixty days after the passage of this act without complying with the provisions of this act and obtaining a new permit for that purpose.

They can be overhauled and it can be seen whether they are entitled to permits. It will not occupy you men who are in the business twenty minutes to attend to this thing. We can get the permits out as fast as you can go there, and I think we had better have them all overhauled and have them all come in for permits.

Senator HANSBROUGH. Why not make that thirty days instead of sixty?

Senator STEWART. That would not be time enough.

Mr. TRUNDLE. Are they required to get new permits all the way through?

Senator STEWART. Yes; everybody must get a new permit.

Mr. TRUNDLE. There are some people here who run 25 or 30 wagons. They would have to have them repainted.

Senator STEWART. No; you can get the same number and renew the permit. It would not cost a dollar.

Mr. TRUNDLE. They will not give you the same permit down at the health department.

Senator STEWART. I made inquiry down there whether they were going to require them to retain the same number, and they said they would give the same number.

Mr. TRUNDLE. If they have the permit, and it is in accordance with this law and requirement, why should it be necessary to go down to the health department and take out another one?

Senator STEWART. Maybe they are not entitled to the permit.

Mr. THOMPSON. That is the object, to see whether some are holding a permit now who would not get it under this present law.

Senator STEWART. That is the object of it. If there is any danger of new numbers or new painting being required it ought to be provided for in the act, but they told me there was no such danger.

Mr. TRUNDLE. They have told me differently.

Mr. THOMPSON. It could be overcome by tacking a tin sign on the wagon.

Senator STEWART. You can use the same number and it will read the same way.

Senator HANSBROUGH. You might put in the word "renewal" there somewhere.

Mr. TRUNDLE. I really fail to see the necessity of changing that at all if we have the permits and if we are complying with the law.

Senator STEWART. You mean to insert the word "renewal" after the words "shall continue in the business more than sixty days after the passage of this act without complying with the provisions of this act and obtaining?"

Senator HANSBROUGH. I suggest we insert the words "renewal of his" instead of the word "new," on line 17, so as to read: "and obtaining a renewal of his permit for that purpose."

Senator STEWART. That is right. We will change it that way. That covers it.

Mr. TRUNDLE. May I ask what is the object of that?

Senator STEWART. The object is so that you will not have to repaint those wagons, that you thought there was a danger of. It will make it certain that you will get the same number.

Mr. TRUNDLE. What I meant to ask was why we have to make the application for a renewal of this permit.

Senator STEWART. Because maybe you are not entitled to one at all.

Senator HANSBROUGH. You may not be entitled to one under this law.

Mr. THOMPSON. We have to submit to inspection, as I understand it.

Senator STEWART. That is all.

The next section is:

SEC. 4. That the Commissioners of the District of Columbia shall have power to make all rules and regulations necessary to carry this act and all other laws respecting dairies or dairy farms into full force and effect, and such rules and regulations shall have the force and effect of law.

Mr. THOMPSON. Right there is the worst feature of the whole thing. If you are going to grant the Commissioners of the District of Columbia legislative power they will make a multiplicity of rules and regulations, some of them so violent and distasteful that they ought to make the paper blush on which they are written. The law will not hurt anybody, but it is the rules and regulations they will attach to it. I object to giving the District Commissioners legislative power. I heard it remarked the other day that instead of having one czar we have three. I will not be that uncharitable. I believe they are honorable gentlemen, trying to do the right thing, but they are specially trained men. Their lifetime has been in one specialty, and they have no more knowledge of the dairy business than a newborn babe.

Senator HANSBROUGH. Will they not have at the head of this inspection a man who does know it?

Senator STEWART. They will have an inspector.

Mr. THOMPSON. This section says the Commissioners shall have power to make all rules and regulations.

Mr. GREGG. I would suggest that you cut that part out.

Senator STEWART. And make it read: "On the recommendation of the superintendent?"

Mr. THOMPSON. It is done now on the recommendation of the health officer. He is in the same boat with the others. He can scarcely distinguish between a cow and a goat.

Senator STEWART. He does not pretend to know anything about this business.

Mr. THOMPSON. But his say goes before ours does.

Senator STEWART. Oh, no.

Mr. THOMPSON. It did go and it does go all the time, but he will make the regulations. That is what I object to.

Senator STEWART. He is not the one. He is the superintendent who is to be appointed. Would you object to the superintendent making the regulations?

Mr. THOMPSON. Not if he is a practical man. What we really want is a dairy commission of three or five gentlemen who are well versed in the business.

The CHAIRMAN. You can not get them.

Mr. THOMPSON. We can get them the same as they do in regard to other things, Senator; and all matters in reference to this business should be submitted to them to act in conjunction with the health office.

Senator STEWART. Well, suppose we say, "On the recommendation of the superintendent?"

Mr. THOMPSON. I am willing to do it any way so it is put in the hands of competent people. I think the majority of us want a good, wholesome law, and one that will prosecute and not persecute.

Senator STEWART. The health officer first objected to this because we could not get a superintendent who would be familiar with the dairy business and be an analytical chemist; but in looking over the laws of the great western dairy States, we find that the superintendent, or whoever manages it, is required to be familiar with the business and is also required to be a chemist.

Mr. THOMPSON. The chemist, it seems to me, does not have much to do with it. He simply makes an analysis now and then.

Senator STEWART. He would not have much to do in this case. We will have another assistant to do the analyzing, but he ought to be a chemist, so that he can know something about these things and not be humbugged. Then he wants to be familiar with the business.

Senator HANSBROUGH. Would the superintendent of dairies be competent to make these rules?

Mr. THOMPSON. He ought to be; yes, sir.

Senator HANSBROUGH. Then we might say this, "That the Commissioners of the District of Columbia, on the recommendation of the superintendent of dairies, shall have power," etc.

Mr. THOMPSON. If he is a competent man, that ought to be sufficient; but the thing I am trying to get at is that while there are regulations now—

Senator STEWART. There is nobody at the head of it now.

Mr. THOMPSON. We are continually having trouble, because there is nobody in charge who is familiar with the business.

Senator STEWART. If you do not get a man of that kind, I shall be in favor of repealing the law.

Senator HANSBROUGH. We certainly will get one.

Mr. DARBY. I did not get here in time to hear the amendments on the first page. There is a clause there in lines 12, 13, and 14 that I want to ask a little about. It reads: "And there shall also be appointed by the said Commissioners six inspectors, who shall be veterinary surgeons, whose duty it shall be to inspect all places and dairy farms where milk is produced for sale in the District of Columbia." Is that all their duty—to inspect places and dairy farms where milk is produced?

Senator STEWART. Yes.

Mr. DARBY. I take it that is not the intention. Is it not to inspect all places where milk is kept or offered for sale in the District of Columbia?

Mr. THOMPSON. Not the veterinaries. They are out there to watch the farms.

Mr. DARBY. Where is the clause that provides for the inspection of places where milk is kept?

Senator STEWART. Page 2, line 4:

There shall also be appointed by the said Commissioners eight inspectors, whose duty it shall be to inspect all milk and cream brought into the District of Columbia for sale, and also to inspect all places within the District from which milk or cream is sold.

Mr. DARBY. I see. I missed that by coming in late. Can we add anything to that clause that would cause them to make these inspections with sufficient certainty to give us a reasonable guaranty of an honest quality of milk? If we can make it mandatory upon the inspectors to inspect with sufficient frequency, it would be a great protection to the dealers.

Senator HANSBROUGH. That will be open under the rules and regulations to be prescribed by the superintendent.

Mr. DARBY. I would rather have it mandatory upon the superintendent.

Senator STEWART. You can not fix all the details by the statute.

Mr. THOMPSON. The only thing I fear in it all is that fourth section. There is nothing in the law that will hurt anybody who wants to do right, but it depends upon the construction that these gentlemen put on it.

Senator HANSBROUGH. We have to lodge the responsibility somewhere. We have to do that with everything we pass here with respect to the District.

Mr. THOMPSON. If it was left in the hands of five or seven men at once, there might be a better chance for us.

Senator STEWART. It would be neglected altogether if you had too many.

Mr. EAGER. I would like to make a suggestion here. I do not know whether it can be incorporated into this law or not, or whether it would be made a law. I suggested it to Doctor Woodward some year or more ago. As this law is for the benefit of the people of the District of Columbia, so that they can have pure milk, and especially

the infants, the health officer or the superintendent could write out a set of rules or regulations and suggestions as to how the people after they receive the milk could take proper care of it. I believe that many times milk is contaminated after it gets to the house, when it was received pure.

Senator STEWART. There is no doubt about that. It is often received and put in the warm kitchen, and the best kind of milk would sour under those circumstances in a couple of hours.

Mr. THOMPSON. You can not regulate household affairs.

Mr. EAGER. The doctor admitted that was a good idea, but he had no money with which to do it. He made that statement before the District Commissioners. They asked him how much it would cost. He said he thought \$100. I suggested that he write out a set of rules and regulations and deliver them to the milkmen, and they would deliver them to their customers. If people understood how to take care of their milk after they received it, I think it would keep the milk sweet. The time when the milk is on the point of souring is the point at which it is injurious. Therefore I think there should be contained in this law the provision that one of the duties of the superintendent would be to write out a set of regulations to give to the milkmen to distribute to their customers.

Senator STEWART. I like that suggestion, and if we ever get a superintendent I will suggest it to him. He can make rules under this provision.

Mr. DARBY. I would like to get before you my idea in regard to the frequency of inspection of milk.

Senator STEWART. You will have to impress that on the superintendent.

Mr. DARBY. I want to get it mandatory in the statute, because that would give us a legal standard for milk, and we could buy it and sell it by that standard, by units of value instead of the simple physical standard of milk. You can not regulate the price of that.

Senator STEWART. What would be your suggestion of an amendment?

Mr. DARBY. In the sentence that ends on line 8, page 2, I would add:

To inspect with sufficient frequency to give a reasonable guarantee of milk of legal purity and standard quality, and copies of such inspection to be furnished the dealers.

They will not furnish us these copies now. We want to have it inspected and copies of the inspection furnished us.

Senator STEWART. Would there be any objection to that?

Senator HANSBROUGH. No; I do not see that there would.

Mr. TRUNDLE. They ought to be required to furnish us that copy.

Senator STEWART. These 8 men will be required to go to a great many places.

Mr. DARBY. They will inspect us at the depots and there will not be over three or four places to go to.

Senator STEWART. How many dairies will there be in town when we cut off the stores?

Mr. DARBY. One hundred and twenty-five or 130; but this inspection of milk will probably take place at the depot.

Senator STEWART. They will have to inspect the place and the milk also. You see, 8 men can not do that work and also give certificates.

Mr. DARBY. These copies could be furnished at the leisure of the superintendent. We could have them in five or ten days.

Mr. TRUNDLE. We certainly should have the result of the analysis of the milk.

Mr. DARBY. It is an established custom not to inspect milk over three or four times a month.

Senator STEWART. If this bill goes into effect you form a committee and I will go with you and spend half a day discussing the regulations that will be necessary to carry these provisions out.

Mr. DARBY. If this was put in the statute it would be provided for.

Senator STEWART. I think you would have to have two more inspectors, then.

Mr. THOMPSON. You would have to do your own testing. If they know you have a tester you are safe.

Senator STEWART. You had better have your own tester.

Mr. DARBY. That would be ex parte. The seller could have a test and say it is all right, and the buyer could have a test and say it is all right, but this is a legal standard provided by law. You can not sell it without public inspection.

Senator STEWART. It might give you too good an advertisement.

Mr. TRUNDLE. We might have the latter part of this suggestion embodied in here anyway, that we should be notified of the result of the inspection—the analysis—after it is taken.

Senator STEWART. I thought they always did it.

Mr. TRUNDLE. No, sir; they will not do it.

Mr. GREGG. They did it for a while, but they have not done it for a long time.

Senator STEWART. If they analyze your milk, they ought to send you notice.

Mr. GREGG. They do not do it.

Mr. HORNER. They always send a notice when the analysis falls below a certain standard, and then the warrant follows it.

The subcommittee thereupon adjourned.

HEARINGS

BEFORE THE

173

COMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

UNITED STATES SENATE

ON THE

BILL (S. 2833) TO AUTHORIZE THE EXTENSION, CONSTRUCTION, AND OPERATION OF THE GREAT FALLS AND OLD DOMINION RAILROAD INTO THE DISTRICT OF COLUMBIA.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

HEARINGS BEFORE THE COMMITTEE ON THE DISTRICT OF
COLUMBIA OF THE UNITED STATES SENATE ON THE BILL
(S. 2833) TO AUTHORIZE THE EXTENSION, CONSTRUCTION,
AND OPERATION OF THE GREAT FALLS AND OLD DOMIN-
ION RAILROAD INTO THE DISTRICT OF COLUMBIA.

WASHINGTON, D. C., March 24, 1904.

The committee met at 10 o'clock a. m.

Present: Senators Gallinger (chairman), Hansbrough, Stewart, Dillingham, Foster, of Washington, Foraker, Scott, Gamble, Martin, Mallory, Simmons, Dubois, and Gorman; also Marion Butler, representing the Great Falls and Old Dominion Railroad; A. L. McDermott, president, and George H. Harries, vice-president, of the Washington Street Railway and Electric Company; George T. Dunlop, president of the Capital Traction Company; R. H. Goldsborough, Thomas W. Smith, and others.

The CHAIRMAN. Gentlemen, this meeting has been called to consider the bill (S. 2833) to authorize the extension, construction, and operation of the Great Falls and Old Dominion Railroad into the District of Columbia.

The bill was introduced in the Senate on December 19, 1903, by the Senator from Virginia (Mr. Martin), and is as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Great Falls and Old Dominion Railroad Company, incorporated by the acts of the general assembly of the State of Virginia, shall be, and it is hereby, in addition to the trackage rights now vested in it by existing legislation, authorized to construct and extend into and within the District of Columbia a double-track electric railroad, using the underground system, over the following route: Beginning at the north end of the Aqueduct Bridge and running thence to and into the reservation at the intersection of M and Thirty-sixth streets northwest, with such construction as may be necessary to connect with the tracks of the Capital Traction Company; thence east along M street to Thomas circle; thence around said circle on both sides thereof to said M street; thence along said M street to New Jersey avenue; thence southeasterly along New Jersey avenue to Massachusetts avenue at its intersection with First street northwest; thence southeasterly along Massachusetts avenue to north E street; thence east along north E street to east Second street; thence north on east Second street to north F street; thence east on north F street to Maryland avenue; thence northeasterly on Maryland avenue to the Bladensburg road; and thence northeasterly along the Bladensburg road to a point opposite Mount Olivet Cemetery. Also beginning at the intersection of north F street and east Tenth

street; thence south along Tenth street to south M street; thence west on M street to east Ninth street; thence north on east Ninth street to Georgia avenue; and thence northeasterly on Georgia avenue to east Tenth street. And that it shall have and may exercise within said District every power, right, and franchise conferred by general or special act of Congress upon any other corporation now authorized to maintain or operate a street railway therein.

"SEC. 2. That where the route provided for in this act coincides with the route or routes of any existing street railway, one set of tracks only shall be used in common with such previously existing railway, upon terms to be mutually agreed upon. In case no agreement can be reached jurisdiction is hereby conferred upon the supreme court of the District of Columbia, in equity, to fix the terms upon which the rights hereby given shall be exercised.

"SEC. 3. That the proceeding to fix such terms shall be by bill in equity, which may be filed by any corporation interested against the other corporation, whether owning or using the tracks. The right to use such tracks shall not be delayed by the proceeding for adjudication of such terms, but such rights may be at once exercised, the said court having the right in its sound discretion to impose reasonable terms by requiring bond or otherwise to protect the corporation entitled to compensation. And the said Great Falls and Old Dominion Railroad Company and all other street railways in the District of Columbia shall reciprocally issue free transfers at all connecting or intersecting points on their respective lines.

"SEC. 4. That the said railroad company is hereby authorized to exercise in the said District of Columbia the same powers, rights, and privileges, so far as applicable, as it may exercise under the provision of the acts of the said general assembly incorporating it and acts amendatory thereof in the State of Virginia, including all powers in respect to encumbering its property, and shall be entitled to the same rights, benefits, and immunities in the use of the said road and in regard thereto as are provided in the aforesaid acts of said general assembly.

"SEC. 5. That the Commissioners of the District of Columbia are hereby authorized to recover damages by appropriate action in any court of the said District having jurisdiction in the premises for any injury to public property caused by carelessness or neglect on the part of the company in installing, laying, or maintaining its plant within the said District.

"SEC. 6. That all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

"SEC. 7. That Congress reserves the power to alter, amend, or repeal this act."

The bill was sent promptly to the Commissioners of the District of Columbia, as is usual, for their consideration and report. On the 12th day of March the bill was returned to this committee with a letter addressed to the chairman, signed by Mr. Macfarland, chairman of the Board of Commissioners of the District of Columbia, with a substitute for the bill, both of which will be incorporated at this point.

OFFICE COMMISSIONERS DISTRICT OF COLUMBIA,
Washington, March 12, 1904.

Hon. J. H. GALLINGER,
Chairman Committee on the District of Columbia,
United States Senate.

SENATOR: The Commissioners of the District of Columbia have the honor to submit the following on Senate bill 2833, Fifty-eighth Congress, second session, "To authorize the extension, construction, and operation of the Great Falls and Old Dominion Railroad into the District of Columbia," which you referred to them for report as to the merits of the bill and the propriety of its passage.

The bill as introduced needs many amendments. There are two paragraphs in particular which are contrary to public policy. Lines 16 to 20, page 2, state that the company "shall have and exercise in said District every power, right, and franchise given by general and special act of Congress to any other corporation to maintain and operate a street railway therein." This would give to the new company all and each of the rights that each existing company has. The existing companies, consolidated from several companies, have special charters, in each case granted by Congress, for each original road, so as to cover the particular circumstances, and none have a general charter, such as is asked for here. It would manifestly be better to give to this company a charter suitable to its own needs than to allow it to exercise every privilege granted to all or a number of companies.

Section 4 provides that the company shall have within the District of Columbia all the rights that are or may be given to it by the State of Virginia. This is absolutely at variance with all precedents and contrary to good administration. It would of course not be permissible to allow the State of Virginia to grant privileges within the District of Columbia, such as are asked for here.

The main points to be considered with reference to a new road are, first, the demand for the road, and, second, whether the route chosen is the best.

As a general proposition the Commissioners are in favor of the extension of the existing lines rather than the introduction of new ones within the city, as experience in the past has shown that the consolidation of a number of roads authorized by Congress has been a benefit. Such extensions could be built at a less cost and operated for less money, so that greater facilities, such as transfers, could be afforded the public. The officials of the existing railroad companies have expressed themselves as willing to extend their lines whenever traffic warranted it. It is difficult for one not directly familiar with the cost of operation of the roads and the proper development of traffic to give a definite opinion as to the amount of traffic sufficient to justify an extension. The fact that other companies are willing to go to the additional expense of entering the field would indicate on its face that the traffic warranted the venture. The capitalizations of the companies in the District are large on account of consolidations. The changes from horse to cable and then to electric traction have caused extra expenditures, and the expenses of operation are greater with the underground cable than with the trolley.

The daily movement in Washington is from the outskirts to a center represented by the section lying between the Capitol and the State,

War, and Navy Department, so that in this consideration it will be well to separate the two divisions on the northwest and the northeast.

Taking the northwest, there is a general feeling that an east-and-west cross-town line is desirable; that it will facilitate travel to the new railroad station, and be an accommodation to many who wish to go across the city. That this is a real demand appears on its face by the desire of this new company to construct a route along these lines. While this seems to be the general feeling, and it has been so stated by the board of trade and others, there has been no large body of citizens which has in any way appeared before the Commissioners to make any effort to establish this fact. The street railway would not reach any of the Government Departments or the business section of the city, except by transfer. It would not be the daily business route of many persons, except by transfer, because it goes through entirely a residence section. Most of the steam railroad traffic goes to the hotels, which are not on this line.

As to suburban lines from Virginia, except to the new railroad station, which would not be often the case for any one individual, transfers would be necessary to reach directly the Departments or the business section.

There has been a petition in favor of this line from some residents on M street, but on the other hand an almost overwhelming protest against it. This protest is against the use of M street, not against the cross-town road.

All in all, it may therefore be said that the people in the District as a whole consider that a cross-town line would be a convenience, especially for social purposes and for reaching the parks. If a direct connection without transfer is made to Great Falls, it would be a great advantage in summer for outings. It should also be added that the line would go through a part of the city already curbed, paved, and with the trees planted, so that there would result no economy in allowing the railroad at present rather than in the future.

As to the route proposed—between the Aqueduct Bridge and Twenty-eighth street—M street, Georgetown, is, from the topography, the only one that can be followed. This street is perhaps the most congested within the District. It is about 50 feet wide between the curbs and 82½ feet between the building lines, and can not well be widened. The congestion will continue until a new bridge, as the proposed memorial bridge, gives another route to Arlington. While this proposed new street-railway line will to a certain extent increase the congestion, this point is not considered a serious drawback. From Twenty-eighth street to Fourteenth street NW. the street is 40 feet wide between the curbs and 90 feet between building lines. A width of 45 to 50 feet is desirable for a street with a double-track railway; still, there are many cases of streets with double tracks on them where the width is 40 feet or less. From Fourteenth street to New Jersey avenue the width between curbs is but 32 feet. This is considered too narrow, as the width from outside to outside of cars on a double track is 19 feet, which would leave but 6 or 7 feet on each side when cars are passing.

Eleventh street, where there is now a double track, is but 35 feet wide between curbs for almost all its length. On Monroe street, Anacostia, where there are double tracks, the width is but 32 feet, but such arrangement is very unsatisfactory. In new constructions where

the street is 32 feet wide it should be increased to 45 feet in important localities. The cost of widening in this case would be considerable, as not only would the curb have to be moved and extra pavement laid, but trees must be cut down and others planted, new sidewalks laid, and many fences and house entrances changed. From New Jersey avenue to North Capitol street the widths are, or can readily be made, sufficient. The crossing at Connecticut avenue is bad, on account of the fact that Rhode Island avenue starts at this point. The crossing of Fourteenth street at Thomas Circle is liable to be dangerous. Otherwise the line from the Aqueduct Bridge to New Jersey avenue is practically straight.

As stated, a very large number of protests have been received against the location of the railroad on M street. These protests are well founded, because M street, especially between New Jersey avenue and Connecticut avenue, is built up mostly with good and in many cases handsome residences, which would be greatly injured as residence property, and the street is not well situated for business purposes. There is throughout the District an almost universal objection to a street railroad being allowed on a street already built up with residences, but it must be said on the other hand that on streets where street railroads were in operation before many houses were constructed, such as Connecticut avenue, Columbia road, U street, and Cincinnati street, the presence of the railroad has contributed to the more rapid building of residences along the line.

The only other location which it would seem necessary to consider would be along L street. This street is but 32 feet wide between curbs for its whole length, and consequently would need widening over a greater length. This route would have the disadvantage that the railroad would have to turn from M street into L street, which, if done, should be along some street between Twenty-second and Nineteenth streets. L street has an offset to the north between Eleventh and Fifth streets NW., but this could be avoided by going into Massachusetts avenue at Eleventh street, passing along north of the Washington Public Library, thence along K street to New Jersey avenue.

The location on L street would probably be as vigorously protested against as that on M street. There are several fine residence blocks on this street, especially between Eleventh and Sixteenth streets, but the amount of residence property disadvantageously affected would certainly be less, and the dangerous crossings at Connecticut avenue and Fourteenth street would be avoided.

The situation in the northeast section is somewhat different. There is a strong demand for street-car facilities from citizens' associations and individuals in this section. There has been practically no protest from the section. The demand is mostly for a north and south line connecting with the navy-yard, and it is generally desired that the railroad should go as far north as Florida avenue and not end, as proposed in this bill, at F street. The demand for an east and west line arises mostly from dissatisfaction with the service of existing lines. There are now street-car lines on H, C, D, and East Capitol streets, which cover this territory fairly well, and, besides, the Capital Traction and Anacostia roads have lines in the southeast. The new line, however, would give additional facilities as desired by the residents and perhaps improve, by competition, the existing service.

It is probable that the extension of the U street line of the Capital

Traction Company down Florida avenue to B street and thence on a north and south street to the navy-yard would fulfill most of the present demands for a cross-town service in the eastern section.

The line out Bladensburg road is much desired by the residents of that section of the District; it should, if possible, go as far out as the District line, as soon as the road is widened to a sufficient extent.

The location in the northeast as proposed in the bill is probably as suitable as any other that might be proposed.

The width of the streets in the northeast is generally 90 feet between building lines and from 32 to 35 feet between curbs, except on Maryland avenue, which is 160 feet between building lines and 50 feet between curbs, and Tenth street east, whose width is 80 and 32 feet, respectively.

Bladensburg road is but 66 feet wide. Its width should be increased to 90 feet before a street railroad is allowed on it. On this road, immediately to the north of Bennings road, is Graceland Cemetery, which from its charter can not dedicate land. The necessary land to the north of this as far as Mount Olivet Cemetery should be dedicated. The railroad should therefore be required to acquire such land as may be necessary to widen this road to 90 feet and should be given authority to condemn land for this purpose when necessary.

The greater part of the land necessary for widening Bladensburg road north of Mount Olivet Cemetery, will, it is thought, be soon dedicated, and when this is done, or the necessary land otherwise acquired, the railroad should be extended to the District line.

It is suggested that the railroad, instead of going out Bladensburg road, should go nearly to Langdon on the right of way of the Baltimore and Ohio Railroad, which is soon to be abandoned in connection with the steam-railroad changes. This would have the advantage of a good grade, but would not cover the territory to be served as well as a line on Bladensburg road, and it is therefore not recommended by the Commissioners.

The East Washington Heights Traction Company received a charter from Congress to extend its line across the Pennsylvania Avenue Bridge, up Fifteenth street to Florida avenue, and thence along Florida avenue to Seventh street. The charter of this road has expired and an application has been made for its renewal, but it does not seem probable that the road will be built for some years to come. This route would provide, moreover, only a part of the additional facilities requested, as it is rather far east for a cross-town line and would not give connection to the navy-yard except by a double transfer.

Summing up, the Commissioners consider that there is a general desire for a cross-town line in the northwest; that any line will injure much property of a residential character; that the advantages and disadvantages of a line on M street or L street have been stated, but the L street location, on the line suggested by the Commissioners, is preferable. The narrow streets should be widened, and the total cost of this widening, including the laying of new sidewalks, should be borne by the railroad company. The cost of changing the water pipes would be about \$50,000 and would be practically the same on either location. The changes in the sewer system would not be extensive.

In the northeast the demand for additional railway facilities is general, the only objection coming from the existing lines of street rail-

ways, which claim that an adequate service is rendered and that they are willing to extend the service whenever the traffic warrants it, and that they should not have their territory invaded after they have made, by direction of Congress, such large expenditures of money on their lines. The Commissioners consider that the line as proposed in the eastern section is probably as well located as any other that could be suggested; that an extension north of Florida avenue is desirable, but probably difficult to operate, as presumably alternate cars would be run to the navy-yard and to Bladensburg road from the west; that the line out Bladensburg road should not be permitted until the road is made 90 feet wide between building lines, and that the railroad should extend to the District line as soon as the road is widened to 90 feet.

It is difficult to determine the question of general transfers as proposed in the bill. The cost of installation and operation is greater with an underground electric road than with a trolley road, so that comparison with other cities of a similar size would not be conclusive. If the extension were directed to be made by existing companies, they would doubtless give transfers, but there would also be economy of administration.

The Commissioners have forwarded to Congress a bill providing for universal transfers, and consider that the question should be treated as a whole throughout the District and not, as proposed in this bill, simply as a question between this company and existing street-railway companies.

The Commissioners believe that a cross-town road would be a desirable improvement. They favor an extension of the Capital Traction line from U street along Florida avenue and Eighth street NE. to a junction with the Pennsylvania avenue line, and an extension of the H street line of the Washington Railway and Electric Company out Bladensburg road. If this is not done, or if it is considered that the cross-town road proposed in the bill is necessary, then the L street route, prolonged, as proposed, in the northeast, would be the better (especially as M street is a much-used fire run), the charter of the road being in accordance with the bill inclosed by the Commissioners. This bill is submitted as a substitute, showing the form preferred by the Commissioners in the event Congress should pass an act authorizing the construction of the railroad.

A map is inclosed showing the line proposed by the bill and the alternate L street route referred to in this letter.

Very respectfully,

HENRY B. F. MACFARLAND,
President Board of Commissioners District of Columbia.

The substitute is as follows:

A BILL to authorize the extension, construction, and operation of the Great Falls and Old Dominion Railroad into the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Great Falls and Old Dominion Railroad Company, incorporated by the acts of the general assembly of the State of Virginia, shall be, and it is hereby, authorized to construct and extend into and within the District of Columbia a

double-track electric railroad, using the underground system, over the following route:

Provided, That the location and arrangement of the tracks where they enter or cross the plaza in front of the Union Railroad Station, and, if they pass along the north side of the Washington Public Library building, then their location at this point, shall be under the control of the Commissioners of the District of Columbia, who are hereby authorized to fix the width of roadway at this latter point.

SEC. 2. That where the roadway of a street or avenue through which the route of said railway company passes, as provided in this act, between Rock Creek and the Bladensburg road, shall be less than forty feet in width between curbs, said street or avenue shall be widened to a width of forty-five feet between curbs, and the entire cost and expense of such widening, including the laying of new sidewalks, the adjustment of all underground constructions and of every public appurtenance, shall be borne by the said railroad company, and before a permit shall be granted to said railroad company to construct its tracks within any such street said company shall deposit with the collector of taxes of the District of Columbia the estimated cost of changing the width of such street or avenue, the work to be done by the Commissioners of the District of Columbia; and wherever the roadway of any street or avenue occupied by said railroad company may in the future be widened said railroad company shall bear one-half of the cost of the widening and improving of such street, to be collected in the same manner as the cost of laying or repairing pavements lying between the exterior rails of the tracks of street railways and for a distance of two feet from the exterior to such track or tracks on each side thereof is collectible under the provisions of section five of an act entitled "An act providing a permanent form of government for the District of Columbia," approved June eleventh, eighteen hundred and seventy-eight: *And provided further*, That before said railroad company shall have the right to lay its tracks in Bladensburg road between Maryland avenue and Mount Olivet Cemetery said road shall be widened without expense to the District of Columbia to a width of ninety feet between building lines, and if condemnation proceedings are necessary to secure such widening said railroad company is authorized to institute the same in the manner provided in the Code of Law for the District of Columbia: *And provided further*, That said railroad company shall, within two years from the time that said Bladensburg road between Mount Olivet Cemetery and the District line is widened to a width of ninety feet, extend its said railroad from Mount Olivet Cemetery to the District line.

SEC. 3. That where the route provided for in this act coincides with the route or routes of any existing street railway, one set of tracks

only shall be used in common with such previously existing railway, upon terms to be mutually agreed upon. In case no agreement can be reached jurisdiction is hereby conferred upon the supreme court of the District of Columbia, in equity, to fix the terms upon which the rights hereby given shall be exercised.

SEC. 4. That the proceeding to fix such terms shall be by bill in equity, which may be filed by any corporation interested against the other corporation, whether owning or using the tracks. The right to use such tracks shall not be delayed by the proceeding for adjudication of such terms, but such rights may be at once exercised, the said court having the right in its sound discretion to impose reasonable terms by requiring bond or otherwise to protect the corporation entitled to compensation.

SEC. 5. That the said railroad shall be constructed in a substantial and durable manner, and all rails, electrical and mechanical appliances, conduits, stations, and so forth, shall be approved by the Commissioners of the District of Columbia.

SEC. 6. That the said corporation shall at all times keep the space between its tracks and rails and two feet exterior thereto in such condition as the Commissioners of the District of Columbia, or their successors, may direct, and whenever any street occupied by said railroad is paved or repaired or otherwise improved the said corporation shall bear all the expense of improving the spaces above described. Should the said corporation fail to comply with the orders of the Commissioners the work shall be done by the proper officials of the District of Columbia, and the amounts due from said corporation shall be collected as provided by section five of the act entitled "An act providing a permanent form of government for the District of Columbia," approved June eleventh, eighteen hundred and seventy-eight.

SEC. 7. That if the said railroad be operated by overhead wires, the corporation shall furnish and maintain such lights along its line as the Commissioners of the District of Columbia may direct, without cost to the District of Columbia; but no overhead wires shall be constructed or used within the limits of the city of Washington.

SEC. 8. That nothing in this act shall prevent the District of Columbia at any time, at its option, from altering the grade of any avenue, street, or highway occupied by said railroad, or from altering and improving streets, avenues, and highways, and the sewerage thereof; in such event it shall be the duty of said company at once to change its said railway and the pavement so as to conform to such grades and improvements as may have been established.

SEC. 9. That it shall be lawful for said railroad company, its successors or assigns, having first obtained the permission of the District Commissioners therefor, to make all needful and convenient trenches and excavations in any of said streets or places where said company may have the right to construct and operate its road, and place in such trenches and excavations all needful and convenient devices and machinery for operating said railroad in the same manner and by the means herein provided, but shall forthwith restore the street to like good condition as it was before. But whenever such trenches or excavations shall interfere with any sewer, gas, or water pipes, or any subways or conduits, or any public work of the kind, then the expense necessary to change such underground constructions shall be borne by the said railroad company.

SEC. 10. That the said company shall, before commencing work on said railroad on such street, deposit with the Treasurer of the United States, to the credit of the Washington Aqueduct, such sum as the Secretary of War may consider necessary to defray all the expenses that may be incurred by the United States in connection with the inspection of the work of construction of said railroad on such street and in making good any damages done by said company or its works, or by any of its contracting agents, to any of said mains, fixtures, or apparatus, and in completing, as the Secretary of War may consider necessary, any of the work that the said company may neglect or refuse to complete and that the Secretary of War may consider necessary for the safety of said mains, fixtures, or apparatus; and the said company shall also deposit as aforesaid such further sums for said purposes at such times as the Secretary of War may consider necessary: *Provided*, That the said sum shall be disbursed like other moneys appropriated for the Washington Aqueduct, and that whatever shall remain of said deposits at the end of one year after the completion of said railroad in such street shall be returned to said company on the order of the Secretary of War, with an account of its disbursement in detail: *And provided also*, That disbursements of said deposits shall, except in cases of emergency, be made only on the order of the Secretary of War.

SEC. 11. That it shall also be lawful for said corporation, its successors or assigns, to erect and maintain, on private grounds, at such convenient and suitable points along its lines as may seem most desirable to the board of directors of the said corporation, and subject to the approval of the said Commissioners, an engine house or houses, boiler house, and all other buildings necessary for the successful operation of its railroad.

SEC. 12. That the line of the said railway company shall be commenced within one year and completed within three years from date of the passage of this act; and in default of such commencement or completion within the time in this section specified, all rights, franchises, and privileges granted by this act shall immediately cease and determine.

SEC. 13. That the said company may run public carriages propelled by electric power, but nothing in this act shall allow the use of steam power in locomotives or of overhead trolleys within the limits of the city: *Provided*, That if electric power by trolley be used, the said company shall be liable for all damages made thereby to subsurface metal pipes and to other public and private property: *Provided further*, That for the purpose of making a continuous connection over the route hereinbefore described the said company shall have the right to cross all streets, avenues, and highways that may be along the designated route.

SEC. 14. That the said company shall furnish and maintain passenger houses as required by the Commissioners of the District of Columbia, and shall use first-class cars on said railway, with all the modern improvements for the convenience, comfort, and safety of passengers, and shall run cars as often as the public convenience may require, in accordance with a time-table to be subject to the approval of the Commissioners of the District of Columbia. Every failure to comply with the conditions of this section shall render the said corporation liable to

a fine of fifty dollars for each offense, to be recovered in any court of competent jurisdiction at the suit of the Commissioners of said District.

SEC. 15. That all articles of value that may be inadvertently left in any of the cars or other vehicles of the said company shall be taken to its principal depot and entered in a book of record of unclaimed goods, which book shall be open to the inspection of the public at all reasonable hours of business.

SEC. 16. That said company shall, on or before the first of February of each year, make a report to Congress, through the Commissioners of the District of Columbia, of the names of all the stockholders therein and the amount of stock held by each, together with a detailed statement of the receipts and expenditures, from whatever source and on whatever account, for the preceding year ending December thirty-first, and such other facts as may be required by any general law of the District of Columbia, which report shall be verified by the affidavit of the president and secretary of said company, and, if said report is not made at the time specified, or within ten days thereafter, such failure shall of itself operate as a forfeiture of this charter, and it shall be the duty of the Commissioners to cause to be instituted proper judicial proceedings therefor; and said company shall pay to the District of Columbia, in lieu of personal taxes upon personal property, including cars and motive power, each year, four per centum of its gross earnings in the District of Columbia, which amount shall be payable to the collector of taxes at the times and in the manner that other taxes are now due and payable, and subject to the same penalties on arrears; and the franchise and property of said company, both real and personal, to a sufficient amount, may be seized and sold in satisfaction thereof, as now provided by law for the sale of other property for taxes; and said per centum of its gross earnings shall be in lieu of all other assessments of personal taxes upon its property used solely and exclusively in the operation and management of said railway: *Provided*, That its tracks shall not be taxed as real estate.

SEC. 17. That said company may receive a rate of fare not exceed five cents per passenger; and the said company may make arrangements with all existing railway companies in the District of Columbia for the interchange of tickets in payment of fare on its road: *Provided*, That within the limits of the District of Columbia six tickets shall be sold for twenty-five cents.

SEC. 18. That the said company shall have at all times the free and uninterrupted use of the roadway, subject to the rights of the public, and if any person or persons shall willfully, mischievously, and unlawfully obstruct or impede the passage of cars of said railway company with a vehicle or vehicles, or otherwise, or in any manner molest or interfere with passengers or operatives while in transit, or destroy or injure the cars of said railway, or depots, stations, or other property belonging to the said railway company, the person or persons so offending shall forfeit and pay for each such offense not less than twenty-five nor more than one hundred dollars, to be recovered as other fines and penalties in said District, and shall remain liable, in addition to said penalty, for any loss or damage occasioned by his or her or their act as aforesaid; but no suit shall be brought unless commenced within sixty days after such offense shall have been committed.

SEC. 19. That the said railroad company shall have the right of way

across such other railways as are now in operation within the limits of the lines granted by this act, and is hereby authorized to construct its said road across such other railways: *Provided*, That it shall not interrupt the travel of such other railways in such construction.

SEC. 20. That no person shall be prohibited the right to travel on any part of said road, or be ejected from the cars by the company's employees for any other cause than that of being drunk, disorderly, or contagiously diseased, or refusing to pay the legal fare exacted, or to comply with the lawful general regulations of the company.

SEC. 21. That should the said railroad company fail to commence and complete the construction of its road within the limit of time prescribed by this act, all rights, franchises, and privileges herein granted shall cease and determine.

SEC. 22. That the operation of the cars upon the route herein authorized shall be under the direction and control of the Commissioners of the District of Columbia, who are hereby authorized to make such regulations in regard to speed, character, and weight of cars, time of operation, and fare to be charged as they may deem necessary or desirable; and any company violating any regulations of said Commissioners made under the authority of this section shall be subject to a fine of not less than twenty-five dollars for each and every offense, to be recovered in any court of competent jurisdiction at the suit of said Commissioners, and in default of the payment of such fine the Commissioners are hereby authorized to exercise their police authority to prevent the operation of the cars of the company so defaulting.

SEC. 23. That Congress reserves the right to alter, amend, or repeal this act.

The CHAIRMAN. I will venture to suggest to the gentlemen present that the time of every Senator at this stage of the session is very valuable, and that it is necessary to make all hearings before this committee as brief as possible. I do that for the purpose of suggesting to gentlemen who may address the committee that they exert themselves to condense their remarks so as to give the committee an opportunity to go to the Senate Chamber at 12 o'clock.

I understand that ex-Senator Butler is present to present some reasons why this charter asked for should be granted, and the committee will be pleased to listen to Mr. Butler at the present time.

STATEMENT OF MARION BUTLER.

Mr. BUTLER. Mr. Chairman and gentlemen of the committee, the questions we have before us are, first, do we need a cross-town railroad; next, if so, what route it should go over. The next is with respect to the details and provisions of the bill.

Now, do we need a cross-town railroad? I do not think it is necessary to take the time of the committee to argue that question. I understand there is no protest or objection to a cross-town railroad, but a general unanimity of sentiment and desire in the city for such a road. The Commissioners themselves in the letter to the chairman state that there has been no protest against a cross-town railroad. They further say that there are many petitions and a strong demand and necessity for such a road. The Commissioners say, referring to the northwest:

There is a great feeling that an east and west cross-town line is desirable, etc.

Next they say it would facilitate travel across the town and be a great convenience to the people both in the northeast and northwest. In conclusion they say:

The Commissioners believe that a cross-town road would be a desirable improvement.

Now, Mr. Chairman, it seems to me it is not open to any room for objection or controversy on that point. The sentiment is unanimous, so far as I know.

It being true that we need a cross-town railroad, then where should the road be put? Clearly where it will accommodate the most people in town and be the least inconvenience to property holders. Where is the most convenient place? That is a question which in a few moments I wish to take up.

Before doing so I wish to call attention to the only objection made to this bill by the Commissioners. We have offered a bill covering a certain route and asking for certain provisions in the charter. They say that this bill needs many amendments, but they suggest only two in their report. The first objection is to giving to this company all the rights and privileges that existing railroads have.

Mr. Chairman, if there are any rights and privileges which existing railroads have that it is improper for those roads to have then we respectfully submit that those provisions of law should be repealed. This company does not desire anything but fair and equal treatment and to be on the same basis with every other railroad within the District of Columbia.

We could draw a long, elaborate charter and submit it to you, putting in all the provisions of all the other acts for all the other railroads, but why burden the bill with them? Why not simply say in a line as we have done, "That all of the provisions of the charters and all the privileges and powers granted to other railroads shall be conferred upon this one." If there is any objection to that wording, then we submit that we would be glad to have a general section in lieu thereof, to which it seems to me there can be no objection, and we submit to the committee this section in the place of the one criticised by the Commissioners:

That any corporation authorized to build, maintain, or operate a street railway in the District of Columbia may have and exercise any and every of the rights, powers, and privileges conferred by general or special acts of Congress upon any and every other corporation authorized to build, maintain, or operate a railway in the District of Columbia.

With that section placed in the bill every other corporation would have all the privileges that you may grant to us, and we would have all those already granted to them, so that every corporation would be placed on exactly an equal footing by Congress; and I submit that that is fair, and that is all we ask.

We are willing to have stricken out of the bill the words which are criticised, beginning in line 16 of page 2 and running to line 20, and to have put in a general paragraph, simply saying that all railroads shall be on the same footing and shall have the same rights and powers. Surely nobody can object to that. We have here, and will leave with the committee, the language I have just read, and we hope the committee will see fit to insert it as a simple matter of fairness and justice to all the roads.

The second objection to this bill made by the Commissioners is as to section 4, at the bottom of page 3, beginning:

SEC. 4. That the said railroad company is hereby authorized to exercise in the said District of Columbia the same powers, rights, and privileges, so far as applicable, as it may exercise under the provision of the acts of the said general assembly incorporating it and acts amendatory thereof, etc.

Mr. Chairman, we do not care anything about that provision. If there is any objection to it in the committee we are perfectly willing for the committee to modify it in any way they see fit or to strike it out entirely.

Senator FORAKER. Which provision is that?

Senator GAMBLE. Section 4.

Mr. BUTLER. Section 4, beginning at the bottom of page 3. I am frank to say to the committee that if I were a member of the committee I would not vote for the section just in the language in which it is in the bill. I do not think it would be a proper precedent. However, it could be modified to read that the company may exercise the powers granted under its charter that are applicable in the District and stop there, and we would be perfectly satisfied with that. But if you will give us this general provision for which we have just asked, putting all the roads on an equal footing, then we do not care for this provision at all.

But if we do not get the general provision we would want this modified to give us the powers granted by the charter in Virginia, as far as they are applicable in this District, because it covers the details, and there are a hundred details, almost, that should be covered if we are to have just simply a separate charter. All the provisions about street crossings, lights, removing snow, police protection, and all the other details that have grown up and been found necessary, we would have to put in a separate bill unless we have the rights and powers already granted other companies, or unless we have those granted by the charter of Virginia, and the latter would not be sufficient to cover the details in the District. So I submit that you can strike out this section if you prefer, and simply give us the privileges that other roads have and we will be content.

That covers every objection, as I read the report of the Commissioners, to the bill. We have met those objections in a fair way, yielding entirely to one and yielding to what is fair with reference to the other.

Mr. Chairman, the question of a route for this road is the next question. The Commissioners discuss two routes, one on L street and one on M street. They point out objections to the M street route, and then conclude by admitting that the objections are equally strong, or the protests from the property owners would be equally strong, if it was proposed to put it on L street. What objections are there to M street? They say certain property holders object to a railroad going there because it will damage their property. Railroads have developed property. You run a railroad line where there is not one in this town or any town, and at once the price of lots goes up and houses begin to be built there, while the lots on streets behind and on either side will stand vacant.

Suppose there were no street-car line to-day on Connecticut avenue, and suppose it was proposed to-day to grant a charter to a company to run a line up Connecticut avenue, would not 99 per cent of the

people on that street probably object? Do not most of them ride in their carriages, or, if they do not, they would prefer the street-car line to be on the next street, in front of their neighbor's house, where it would be equally as convenient for them to ride on it?

If we are to have a cross-town road it must go somewhere. Then it should go in the center of the population that needs the transportation which the present lines do not furnish. I submit that anyone who will walk up M street from Georgetown to New Jersey avenue, and then down to Massachusetts avenue, the route of the proposed line, will readily see that he is in the center of a wide area, with no street-car facilities except the cross lines running north and south at considerable distances apart, with the people on either side a long way from any railway line, viewed from a local standpoint. At the same time the line going through that section of the city deprived of adequate transportation facilities will connect the east and the west. It will, further, cross the Aqueduct Bridge, and connect the people with that beautiful part of Virginia all up the river; more beautiful than the other side; an ideal place for country homes; where there would be the most beautiful and elegant and comfortable suburban residences around this whole city.

We must go on M street or L street or some other street nearby or have no road. Now, then, if that kind of objection will stop the building of a road which is needed, then we will never build a street-car line around a single block or a single street in this town. It is a question now of the public good, and of doing it with the least possible damage to any private property. If we go on L street, what would happen? The Commissioners advised us to go on L street, and they say we would have to widen that street from one end to the other. What does that mean? It means cutting down every shade tree from where we would cross the creek between Georgetown and this town all the way to New Jersey avenue. The shade trees on both sides would have to come down; the street would have to be torn up, the sidewalks moved in, and the little grass plots in front of each home made smaller, if not wiped out entirely. Is it desirable to do that? Not if we can build the line somewhere else equally convenient to the people without doing it. L street is 32 feet wide. M street, right by it, except one block farther north, and therefore nearer the center of population that has no facilities now, is 40 feet wide for nearly its entire distance. We can run up M street without cutting down a single shade tree, without removing sidewalks, or cutting off the grass plots in front of the residences. It is an ideal street.

What else? If we go up L street we have in that street two big water mains and a sewer, all of which would have to be disturbed and moved. If we go up M street what is there underground? Nothing. Is it desirable to tear up a street which has two big water mains and a sewer in it, to tear up the ground and cause miasma and all kinds of poisonous gases that cause malaria here, and thus have a regular epidemic of it? We can build the road without any of those troubles; and then besides, I say in common fairness, a road that is offering to furnish these great conveniences to a city should not be forced to go to greater expense than is absolutely necessary.

The Commissioners recommend that all that be done and that the company be put to the expense of doing it all—moving the water

mains, moving the sewer, tearing up the sidewalks and replacing them at their own expense—enormous expense, and one that is unnecessary and entailed by operations which would cause a great inconvenience to the people along the line and to the whole city.

Mr. Chairman, there is only a part of M street that is 32 feet wide. I submit that Congress ought to let this road be built on M street and not disturb a shade tree on that part which is 32 feet wide. While it is a little narrow, we know you can run a double-track railway on a street that wide. If we can not do it, and there is inconvenience afterwards, a small part of the route can be widened, but we would consult the Commissioners and this body would consult the wishes of the citizens, and if you found it impracticable to allow the line to run without widening the street, then the company would be ready to do it. But it is a serious thing to destroy shade trees and to tear up and many times destroy people's front yards when it is not necessary.

L street, we know, has ugly humps. Where it crosses Massachusetts avenue there is a hump that goes half a block. A railroad could not run there and make a turn without cutting through and across that beautiful triangle—a triangle that is a thing of beauty; and we have them all over the city. When New York avenue crosses L street, L street humps back again a half block, and there are two beautiful triangles with flowers and trees. We would have to cut through those. Is it desirable to do that? There is every reason why we should not go on L street—every reason as affecting the public, and those are more serious than the reasons affecting the company.

Senator FORAKER. Before you leave that point, you spoke about having to remove a sewer and certain water mains on L street. What is the necessity for removing them? Are they not laid deep enough so that you could construct a street railway and operate it over them? What is the difficulty?

Mr. BUTLER. The engineer of the company is here to state the details. I should hope they would not have to be removed, but the Commissioners recommend that they be moved and that the company do it, and since the Commissioners recommend it—

Senator FORAKER. I am asking for information. Ordinarily sewers and water mains are laid far enough below the surface not to interfere with the construction of a street railway on the surface. Are these sewers and water mains so near the surface that they would be interfered with by the construction of your railroad?

Mr. BUTLER. I judge they are, or the Commissioners would not recommend that we remove them. It is the policy of the Commissioners, I will say, not to permit railway tracks to be laid over water mains or sewers. These tracks would be built upon the underground principle of construction, and they do not think it is safe, and they say in their letter that that would have to be done.

Senator FORAKER. I have not read the letter, but I should think the water mains and sewers would have to be quite near the surface if they interfered with the ordinary construction of a railroad.

Mr. BUTLER. We certainly hope that is true in this case, if the committee should put us on that narrow street.

Senator FORAKER. I do not know whether it can be done without removing them or not.

Mr. BUTLER. Mr. Chairman and gentlemen, we have met every objec-

tion made to this bill. We are willing to take any street or route you give us, but we expect you, of course, to give us the one that will be of the greatest convenience to the public and the least unnecessary expense to the company, and that, we think, is M street.

The Commissioners recommend as a substitute a long bill. We are willing for the committee to tack that bill on as an amendment to our short one if they desire to; but we submit that the special legislation which they recommend to apply to this railroad alone if attached to this bill should be made to apply to every street railway in the District. That is simple fairness. We believe we will be treated fairly by this committee. Why should there be any legislation applied to this road which is not applied to all others?

For instance, I think there is legislation proposed here that is unnecessary, and I doubt very much if the committee will favor it. I saw in the newspapers that there was a hearing before the committee on another bill and considerable opposition to a provision contained in section 22 of the substitute bill. There they recommend—

That the operation of the cars upon the route herein authorized shall be under the direction and control of the Commissioners of the District of Columbia, who are hereby authorized to make such regulations, etc.

The Commissioners have, I think, recommended a general bill of that kind and it has been discussed by this committee. Now, if the committee desires to put that power in the hands of the Commissioners, then we have no objection, provided it applies to all the railroads in the District.

We shall be perfectly content with any kind of regulation that this committee thinks fair and reasonable, but let it apply to all. We submit that the substitute bill, beginning with section 5 up to the last section to which I have just referred, contains provisions which, if they meet the approval of the committee, might properly be added as an amendment to this charter, and we have no objection in the world to them, provided they are all made general.

Now, Mr. Chairman, there is one other suggestion made by the Commissioners that I hardly think it worth while to discuss, but it should be referred to briefly, probably. They say as a general proposition they are in favor of this cross-town road, but they are in favor of it being built by existing companies. What reason do they give for that? They say the existing companies can build it cheaper. Is that a matter of serious import to the people of the District if the fare is going to be only 5 cents, six tickets for a quarter? What difference does it make if this company is willing to go to the expense? We think we can build it as cheaply as they can. But what has that to do with it? The Commissioners say it can be operated more cheaply by existing lines. We do not think it can. But suppose it can be? Does that affect the public if we are willing to undergo the expense and to operate the road? What reason can there be, then? None.

What reason is there not to leave it to the existing lines? Every reason. Why? Because the existing lines are not here offering to do it. You can not force them to do it; or if they did do it, you would probably have to force them, if you can find a way. The public has been crying for a cross-town railroad and the existing roads have not answered that appeal. They have not come up and said, "Gentlemen, give us the right and we will respond to that public demand for this public

necessity." Who has responded? No one except this company, and here we are to-day saying, "We will comply with this public demand for a public necessity, and we are willing to comply with any fair regulation you will make." We are the only people offering to give this public necessity.

What do the Commissioners say? That they think the existing companies will do it when the traffic warrants it. That is, when the existing companies think that the traffic warrants it. They have not up to date thought that the traffic warranted a cross-town railroad. Will they think so next year? Will they think it in five years from to-day? Will the existing companies in ten years from to-day conclude that the traffic warrants a cross-town road? We know it warrants it now; the public knows it, and therefore we are here offering to carry that traffic and to supply this necessity.

Then we know, too—it is human nature—that if the existing lines build this road as a branch to theirs they will not give the service that a separate, independent, competing company would give. There is not a branch line in this town on which they give the service that an independent competing line would give. There are complaints constantly against the branch lines that the existing companies have built. In yesterday's paper and in this morning's paper are strong appeals to the Commissioners to force this or that road to give better car service—more frequent service, better cars.

If you and I owned the existing lines and we built the cross-town road up M street we would run just as few cars as we could, because we would get everybody one way or the other anyway. They would have to walk to the main line or wait five minutes for a car on the new. The service would be infrequent and the constant answer would be, when persons appealed to the Commissioners for better service, "this line does not pay us as well as our main line, and we can not give as good service." You know that an independent company would be forced to give as good or better service than the other road in order to draw the amount of traffic it desires, and would have to get it in order to make the road pay.

So there is every reason why an independent company should build this road, not only because it would give better service but because it is the only sure way to get the road built as far anybody can now see.

Mr. Chairman, I have tried to observe the suggestion to be as brief as possible, and I will not burden the committee any further unless something should be said or something should be brought out that requires further remarks.

The CHAIRMAN. Is there any gentleman present who desires to speak on the other side of this question?

Mr. KING. I wish to say a few words about the M street route.

The CHAIRMAN. I suggest to the gentleman that before there is a discussion of the question as to streets, which is really not before the committee at the present time, we hear some general objections to the proposition. Perhaps Mr. Dunlop, of the Capital Traction Company, or General Harries, of the Metropolitan Company, might be heard now, if either of them feel like addressing the committee, after which we will have an opportunity to have the matter debated in its other aspects. Mr. Dunlop, do you wish to be heard?

STATEMENT OF GEORGE T. DUNLOP.

The CHAIRMAN. Mr. Dunlop is president of the Capital Traction Company.

Mr. DUNLOP. Mr. Chairman and gentlemen of the committee, I labor under a little disadvantage in speaking before we have heard the other side thoroughly, and I will ask that if there is anything I desire to say after I have heard the other side I be allowed to make a few remarks.

Representing the Capital Traction Company, I desire to say that we protest against the passage of this bill on the ground that it invades the rights and privileges granted to my company some forty-two years ago, and we believe that we have lived up to the charter requirements of our company fully, sincerely, and to the advantage and building up of this city. I believe that I speak the truth when I say that no institution in the District of Columbia has done more in the forty-two years to build up this city than the now Capital Traction Company. I do not believe that that will be controverted.

The CHAIRMAN. Mr. Dunlop, be somewhat specific in explaining in what way it invades your rights.

Mr. DUNLOP. I am coming to that, Mr. Chairman.

In 1894 a bill was passed, and it was approved on August 23, 1894, as follows:

"That in order to accommodate the street railway traffic that may converge at or near the Aqueduct Bridge, under authority granted or to be granted by Congress, a passenger station is hereby authorized. Such station shall have ample provision for the safe, convenient, and comfortable transfer of passengers to and from the cars of the street railways using the same. All plans for such station and its necessary approaches shall be subject to the written approval of the Commissioners of the District of Columbia. The said Commissioners shall have the power to settle any differences which may arise between the companies using the said station as to compensation or rentals or as to the necessary regulations for the control of said station. The said passenger station shall be constructed and maintained as a union passenger station, for the use of street railways only, by the Washington and Georgetown Railway Company. Said station shall be located on land already owned or hereafter to be acquired by the aforesaid company, which land shall be bounded on the north by Prospect street, on the east by a line drawn not less than one hundred and twenty feet west of the west line of Thirty-fifth street, on the south by M street, and on the west by Thirty-sixth street northwest. Within one year from the approval of this act the said Washington and Georgetown Railway Company shall complete the said station and shall extend its tracks on M street northwest to a point not less than one hundred and twenty feet west of Thirty-fifth street, and thence into said station; and thereafter the said company shall cease entirely to switch cars on M street northwest."

Now, Mr. Chairman and gentlemen of the committee, I happened to be president of the road at that time, and I want to go back a little and review this history. In 1892 the Washington and Georgetown Railroad Company had introduced in Congress a bill to allow them to extend their road from the then end of the line at Thirty-second street—now Thirty-second street—to this point or a little beyond. They obtained an option on the square immediately west of this square,

bounded in the act of Congress, and paid a deposit on it. The bill was brought up in Congress. It passed the Senate and went over to the House. Mr. Blount, of Georgia, was instrumental in killing that bill by the mere statement that if the Washington and Georgetown Company was allowed to extend its tracks on Thirty-second street to that bridge they would finally get over the bridge. That is a matter of record and can be found in the records of Congress.

Now it would have been a good thing probably for the people of Virginia if the Washington and Georgetown company had wanted to go over the bridge, and had gone over it, but they did not want to and never did want to.

The CHAIRMAN. Will you state what company was then called the Washington and Georgetown Railroad Company?

Mr. DUNLOP. The Washington and Georgetown Railroad is what is now known as the Capital Traction Company. The bill was killed in the House, and Senator McMillan reintroduced a bill at the same session of Congress, but there was not time to pass it.

Two years later Major Powell, who was then the Engineer Commissioner, upon his representations to the Board of Commissioners and to the Senate committee here, had introduced a bill, framed by himself. It was introduced without the knowledge of the Washington and Georgetown Railroad Company. They never heard of it. We were not consulted on the subject. When the bill was introduced I saw Senator McMillan and talked with him about it and went to see Major Powell and protested against many features of the bill.

Of course we wanted to extend the road up to that point, and had asked for it, and were willing then to extend it, but the provisions of this bill were so drastic that we protested against it.

If you will observe, it bounds a certain piece of land absolutely which the company did not own, and it did not own a foot of it, and it compelled us to buy that piece of ground. I asked to have a condemning clause put in the bill, and I was met with the statement that that could not be allowed to a semipublic corporation. I had never before heard of any railroad in the United States being built, certainly a steam road, which did not have that power. Otherwise they would never get where they wanted to go. But it was not allowed, and we did buy the ground at a very high price.

I protested also against the building of this union station on the ground that it was too expensive for a street railway company to engage in any such project. It was forced upon us. To make myself as short as possible, and as clear as possible in being short, it was forced upon us against our protest. It cost the company within a few thousand dollars of a half million dollars to extend the road less than a half mile and to put up that station.

The plans were submitted, and you will see that in the law it was required that the plans should receive the written approval of the Commissioners. It was very drastic. The plans were submitted three times to Major Powell before he would approve them. The objection each time was on the ground, and on that ground alone, that the station on the plan we submitted was not properly adapted for the suburban roads as he wished them to come in there. The plans were changed each time, and were finally changed to suit his convenience, and then approved by the whole Board of Commissioners in writing. That we had among our papers, but unfortunately it was lost in the fire.

The square that we had the option on immediately west of this could easily have been brought down to the proper grade. Why Major Powell selected this piece of ground we do not know, except that it happened to be east of the entrance to the bridge. I think it was because it would make it convenient for the Virginia roads that it was then contemplated would come in. Otherwise they would have to come across and turn westward and then into the depot. We had to grade that piece of ground and blast out solid rock 62 feet deep. The rock was so solid and firm that the contractor told me afterwards that he sold it to the United States Government for foundation purposes. It was hauled across the bridge and stored there and he afterwards sold it, and he said that he made \$15,000 out of that rock by selling it to the Government.

Major Powell required us, after going through solid rock for 62 feet, to put in a wall. The first requirement was to put in a retaining wall, around this excavation, 14 feet thick, to retain a cut in this hill of solid rock. I contended with him, and brought everything to bear that I could to move him from that decision.

Finally, I applied to Mr. Bernard Green, the gentleman who has charge of the Library—known to you all—a very competent man, to go with me, and in our behalf, to talk with Major Powell. He finally moved him to the extent of allowing us to put in a wall 11 feet thick. It is there to-day, and will be there when the world ends, I think. We put in concrete—solid—62 feet high and 11 feet thick to hold up the solid rock back of it. Of course, it destroyed a very large amount of area inside upon which we had expected to store cars and to utilize in other ways. The depot was built for this purpose. It is there to-day, a monument to Major Powell and the District Commissioners.

When the Old Dominion road was started—and I am perfectly familiar with the origin of it—it was started by people, some of whom I see here to-day, who were interested largely in the Capital Traction Company, but owned over in Virginia farms that they wanted to bring into the market. It was very proper for them to do so if they could get it done at somebody else's expense. They asked me to join in that and I declined. First, I did not see any money in it, and the next thing I did not see that the Capital Traction Company had any business to go over the Potomac River. We did not have any desire to cross that river.

They went on with the bill, and with the avowed purpose of coming into that depot. That statement was made to me, I may say, hundreds of times, and they solicited my influence, if I had any influence, and the influence of my company to get the bill through Congress. They did get the bill through, and they got it through with my consent and any influence that I may have had, and also of other persons interested in the Capital Traction Company. They got it through after saying that the engineers did not make Major Powell's plan of elevating the road so as to get into the station as he proposed, but that they would come across and come into the end of Thirty-fifth street, which we had excavated in the building of this depot and put up a retaining wall there sixty-odd feet high, at a cost of over \$10,000.

I gave my consent, for the Capital Traction Company, that they should come in at the end of that street, and they asked it because our depot is on one side of the street and a stable which we use for our wreck-

wagon teams is on the west side, and I suppose they presumed it would be a little inconvenient. We did not object, because we thought they were going to work in harmony with us, and it would be a good business arrangement, and it was due to the people of Virginia that they should have a road over there.

The CHAIRMAN. Have you reference in your present statement to the privilege we granted the Old Dominion Company last year to cross the bridge?

Mr. DUNLOP. Yes, sir; I am coming to that now, and I am going to state clearly what occurred.

All was harmony up to that time, and they solicited my aid in getting it over to that point. They got my consent and got my aid, as far as I had any influence, that they should come over there and run right alongside of our cars where they stand now and start out of that depot. That bill was passed only at the last session of Congress, last winter.

Immediately, within sixty days afterwards, this bill was published in the newspapers, asking for a privilege not only to extend the line, but to run over our tracks. Is it fair, gentlemen? Is there any justice in it? Is it common decency among business people?

The CHAIRMAN. In order that the other members of the committee may understand it fully, I will state that I believe the fact is that the Old Dominion Railroad Company asked permission of Congress to cross the Aqueduct Bridge so as to enter the District of Columbia, they paying all the expenses necessary in the matter of repairs of the bridge. That is correct?

Mr. DUNLOP. Yes, sir; and in that bill the terminus of it is in the end of Thirty-fifth street. They asked to come over the bridge and come into the end of Thirty-fifth street. That is the bill, and that is the law. Congress granted that.

The CHAIRMAN. You did not appear before the committee either in advocacy of or opposition to that proposition, as I remember?

Mr. DUNLOP. No; because I thought I had more influence without appearing before the committee. That is the simple truth of it.

Senator FORAKER. Did it turn out that you were mistaken about that?

Mr. DUNLOP. It did not. They never would have got over that bridge—

Senator FORAKER. I understood you to say the law was passed.

Mr. DUNLOP. I do not think they would ever have gotten over that bridge or into the end of Thirty-fifth street without our consent.

The CHAIRMAN. That is rather a reflection on Congress, is it not?

Mr. DUNLOP. I will take that back.

The CHAIRMAN. I think you would better do so.

Mr. DUNLOP. I will say they would not have got our consent. Anyway they made great promises, and now they ask to come down over our line on M street.

We have not disobeyed any law. Congress granted us a right and a privilege on that street. Are we not accommodating the public to the full extent? If we are not, and if it is pointed out in any way that we do not accommodate the public, certainly we will give the public that accommodation.

If we do that, have we not the right there? Has not Congress

granted us a right there? Is it right to take it away from us by giving it to somebody else?

Senator MALLORY. How much of your line do they propose to use?

Mr. DUNLOP. They propose to occupy ten squares—from Twenty-sixth to Thirty-sixth.

Senator GORMAN. Is there anything unusual in that provision?

Senator MALLORY. From Twenty-sixth to Thirty-sixth street?

Mr. DUNLOP. Yes.

Senator GORMAN. Is not that the rule applying to all the other roads?

Mr. DUNLOP. I think not, except at isolated points where we run a few hundred feet over the line.

Senator GORMAN. Take the line here in front of the Baltimore and Ohio station. Is it not more than that? It is six or eight squares.

Mr. DUNLOP. No, sir; it is not. I have not counted them, but I do not think it is over three squares. We only use their tracks at First street and run up to Delaware avenue, up here to the Capitol.

The CHAIRMAN. On that point, is it not a fact that your cars run over the Metropolitan tracks from the Baltimore and Ohio station to B street northeast?

Mr. DUNLOP. That is just what we are talking about.

The CHAIRMAN. That is four blocks at least.

Senator GORMAN. Five.

The CHAIRMAN. Five. Including the return, do you not run on their tracks about seven or eight blocks?

Mr. DUNLOP. I expected that this point would be raised, and I am prepared to meet it. The Capital Traction Company has always been opposed, and is on record as being opposed, to occupying the tracks of any other railroad. We want to be free to operate our own road in the best manner that it is possible for a railroad company to operate it.

Senator GORMAN. That is true.

Mr. DUNLOP. We have always announced that. Senator Gorman knows that. I have talked with him some on the subject. We came to Congress and asked for the privilege to come up B street nearly to the Capitol and turn again, making a loop there. We were not successful in getting that. There is no use going into the minutiae of the history of that, but we were not successful in getting it. I think Senator Gorman knows the facts about that.

The CHAIRMAN. The chairman of the committee wants to be understood. He is not expressing an opinion as to the desirability or propriety of this at all, but simply wishes it to be understood by the other members of the committee, who may not have looked into this matter, that the present rule is that the existing roads do run mutually over each other's tracks.

Mr. DUNLOP. If I had gotten a little further along it would have been clear to the committee. We were forced to do it. Not that we considered it good railroading, or that we desired to do it, but we were forced to do it. The bill passed Congress authorizing us to make the present loop around up here. It was not introduced at the request of the Capital Traction Company. It was introduced by Senator McMillan or some one of the committee, because he said that we should put those cars up here. We were willing to do it, and asked for a route to do it on, but we were met with various objections and were not allowed to do it. That is another case where we were forced to do

that which was against our judgment. Since we have done that, we have been tied up, to use that expression, over and over again, by the shortcomings of our neighbor, and so it ever will be so long as we are tied together—the two systems. It is bad railroading, and the city will never get the best service so long as it permits that sort of thing to go on. I speak from the practical standpoint. I have been in this business twenty years.

Senator FORAKER. Is not that the usual system in cities where they have competing roads, that there is a common use, to a limited extent, of the tracks?

Mr. DUNLOP. Only for short distances where it has to be done. I admit it is done; it is done here; but I do not believe it is good railroading.

Senator FORAKER. That may be, but there is nothing unusual in what you are required to do in that respect.

Mr. DUNLOP. Now, is it proper to grant this charter to a new company to run on our tracks and collect the fares and all that sort of thing? There is no provision in the bill to prevent them from doing it. We laid those tracks. We have occupied them for forty-odd years. We have served the public. Now, they come along and are to get the advantage of that.

Senator FORAKER. They would be required to pay their pro rata share of your steel and other expenses of that kind.

Mr. DUNLOP. That is, a little later on. They will not want to do that, I venture to say.

The CHAIRMAN. They would be required to pay just compensation for the use of your tracks, of course.

Mr. DUNLOP. Well, we all know how much that is, Senator.

The CHAIRMAN. Do you not pay the proper proportion where you run over the Metropolitan tracks?

Mr. DUNLOP. We do; that is, we pay what they send us a bill for.

Senator MALLORY. Is that just compensation?

Mr. DUNLOP. I hardly think it is, to be frank with you.

Senator MALLORY. Is it unjust?

Mr. DUNLOP. I think so.

Senator GORMAN. To which company?

Mr. DUNLOP. I think when Congress put us around here, if I had been in the place of the other company I certainly would have made a very severe kick. I would have fought it to the bitter end. It was not right; it is not right now; and there is a bill here asking Congress to free us from this entanglement. I hope it will be granted. We have seen the evil of our doings, and I think Congress ought to untangle these two roads. We are here asking for that bill, to enable us to run up B street and go to the Union Station. That will break up that arrangement and be an advantage to both companies and to the city.

The CHAIRMAN. You do not expect to get up B street, do you?

Mr. DUNLOP. I hardly like to answer that question. We will keep up hopes.

The CHAIRMAN. "Hope deferred maketh the heart sick."

Mr. DUNLOP. Very sick sometimes, when we have to deal with these questions in the way we do have to deal with them.

Taking the broad question of the need of this road, in my humble opinion, expressed after twenty years' service in this business, there is

no need of a road on the line which this bill calls for. There is no point in the city where the two existing roads are where it is over four squares to reach any one of the existing lines. The longest point is where they leave us at M street on Twenty-sixth street to Twenty-second street, at the approach up there. There is a flatiron-shaped territory in there, and there is no point in that section where it is over four squares from either road; and coming down to a wedge shape down here at Seventeenth street, coming on one side of the square there, Lafayette square, and we on the other, that is the widest point where the roads diverge from each other.

There is no necessity for this road. I do not know whether the gentlemen interested in this road have put it out, but it has reached me that the great talk is that the people of Virginia want to reach the Union Station. How many of them will go to the Union Station? Do any of you know how many countrymen will travel to the Union Station? There would not be enough hauled in a year to pay for the oil on the wheels going to the Union Station.

Now, if they want to get there when they come over that bridge into Thirty-fifth street, which they have a right to do now under the law, we are perfectly willing to take those passengers on as good cars (ex-Senator Butler has spoken of the fine service they are going to give—promises)—we will take them in as good and comfortable cars as they can put on any tracks they will build, and we will bring them to that Union Station in as short a time as they can get them there, and will make arrangements—very equitable arrangements—so that the traveler will not have any more money to pay than one fare.

Now, why do you want to tear up these water pipes and this sewer and cut down fine trees, and all those sort of things? You simply want to get the people from Virginia, as I understand, to a certain point, which is the Union Depot. That is the objective point. That is the great point in this bill. We will take them down there on equitable terms, and it will not cost the Virginians a cent more to get there. They are not interested in tearing up the streets of Washington, and I believe they would rather travel on the Capital Traction Company cars to get to the depot, because they will be sure to get there. They know they will get there, and they will get there on cars that will run every three minutes. These gentlemen will not give any better service from Great Falls, Va.

Here is a road from Great Falls, meandering around Washington City, and going out to Bladensburg. What for? To carry duelists out there? That is its only history that I know of, except the battle in 1812, and they did run away then. There is no necessity for the road going to Bladensburg. It would not pay, and they do not intend to build a foot of that. The bill is not got up for that purpose. That is not the purpose of the bill. The gentlemen interested in this bill, if reported correctly to me and to our company, are not the kind of men to build railroads for the accommodation of the public alone. That is not the spirit behind this bill.

Senator HANSBROUGH. What is the purpose? You have suggested it. I think we ought to know it if you have anything in your mind on the subject.

Mr. DUNLOP. I do not care to express myself on that point until further developments. But we have a right to surmise, and I have a right, I think, to make a surmise of it.

Senator HANSBROUGH. Unless you will agree to communicate it to us in private, we shall not let you off. We should like to have you tell us now. I think we have a right to know.

Mr. DUNLOP. I never say anything in private that I would not say in public.

Senator HANSBROUGH. Then we would like to have it in public.

Mr. DUNLOP. That is my principle and that is my mode of doing business. I say I believe—mark you, it is my opinion—that it is to be built for stock and bond jobbing purposes.

The CHAIRMAN. One remark which you made attracted my attention. You said they would not build a foot of this road.

Mr. DUNLOP. I say that because there is nothing to encourage anybody who builds a road for profit, for the earnings of it, to build this road.

The CHAIRMAN. I assume that you mean to say that they will not build a foot of the road from the Aqueduct Bridge to their terminus.

Mr. DUNLOP. That is what I mean. The road in Virginia will be built, and it will not long be in the hands of the people who build it, either, in my opinion. It will be built like all the suburban roads. Every one, save one, here has gone into the hands of a receiver or is hanging ready to go in now. General Harries told this committee not a month ago about it. I know the history of them all—every one. There is not one of them that pays operating expenses, and that road will not pay operating expenses in the lifetime of any man within the hearing of my voice. I know it. I know it from a practical standpoint. We operate one of them. When we took it, it was losing \$40,000 a year. It was running behind that much. We have brought it down, and the lowest point to which we have brought it down is \$11,000. We own that child, and we have tried to nurse it and to coax it and to do everything we could with it.

There is more on that side than there is on the Virginia side. There is nothing over there—absolutely nothing. It will not pay the men who will run those cars. I know it, and I know it well. That is not what it is for. But that part of it will be built, because the building of the road will enhance the value of the land. The people who will get the profit will be the people along the line. As soon as they get the road built the people will commence to hammer the road about the service. Not one of these suburban lines is paying expenses. None of the people who own the land are in this. They all got out long ago. They introduced the bill, and they had it passed through the Virginia legislature and one through the Congress. Every one of them is out to-day, and it is in the hands of a new set. Not one of them is in it. I do not believe one of them owns any of the stock. If he does, it is very little. But they are there and pushing this, because they want the land improved. I do not blame them. If they can get somebody else to build it at their expense, it is all right.

The whole thing is a scheme. There is no necessity for any other road. If there is the Capital Traction Company stands ready to-day to put in any extension in any direction in this city where it can be shown that there is absolutely a need of it—sufficient to warrant the expenditure.

Senator FORAKER. How does the length of your route from the Aqueduct Bridge to the proposed Union Station compare with their proposed line?

Mr. DUNLOP. I have not measured it or calculated it.

Senator FORAKER. Is it practically the same?

Mr. DUNLOP. But the time, I know, practically, Senator Foraker—

Senator FORAKER. Can passengers be carried on your line practically in the same time?

Mr. DUNLOP. There can not possibly be three minutes difference in time. It may be that, in our favor or theirs. I do not know about that. But we will give them a three-minute service; and I do not think there will be any cars running from Great Falls through the city on a three-minute schedule. If they get one car an hour, after the first blush is over, it will be all. They will be coming in here for a year or so looking so that you would think the chickens had roosted all over them. That is the way every suburban railroad has done.

Now, let us be frank about this thing and talk common sense. There is no necessity for a road. If there was the Capital Traction Company would build it and operate it on our system; and wherever we do operate an extension we do it on schedule time.

Some years ago—you all remember it, for it is not very long ago, and a good many of you are here who were here then—all these roads were in a chaotic state, and Senator McMillan exerted himself to the utmost to break that up. The people all around were complaining of the suburban roads. Finally nobody wanted them. To be frank with you, I was in hopes they would all go into the hands of receivers and that the Capital Traction Company would get them and we would give a service, but it happened then just as it is going to happen now with the Old Dominion road if it is built into this city. Promoters came along, and they got between the people who had the railroads on their hands and some New York people who had more money than they knew how to invest properly. The promoters got in between them, and they bought up these broken-down roads at an enormous price, and they turned them over to these New York people and got the money from them. They put the promoting money in their pockets and went to Abyssinia and other places. They have gone out of sight, gentlemen—every one of them. Not one of the promoters is in sight to-day. But the New York people held that bag—empty. They found they had an empty bag; and I speak from what they told me. They never were so deceived in their lives.

They have been struggling with that situation and they finally reorganized, and it is only a matter of opinion on my part, but I think they will reorganize again. There will be another reorganization and perhaps another after that before they get down to the proper basis. Now, you are going to put another one in here.

The CHAIRMAN. It has been frequently suggested in this committee that the Capital Traction Company has also done a little promoting.

Mr. DUNLOP. I am prepared to answer that question. The Capital Traction Company, if you call it promoting, did it with its own people. Not a dollar was ever lost to any outside people. Nobody was deceived in that respect. They took what they got; they paid for it under the law, and that law is here. If it is not good law, then, gentlemen, we ought not to be censured. Congress made the law, and we have acted under the law; and has it not been a good thing for the public? Never has a fare been raised. Nobody has paid any more to travel on the Capital Traction or the Washington and Georgetown Railroad Company, and the Chevy Chase passengers have paid less.

We carry them to the District line for a single fare, and we go beyond and we carry them into Maryland for $4\frac{1}{2}$ cents where the law permits us to charge 5. We are very liberal.

The CHAIRMAN. That is true also of the syndicated roads, is it not?

Mr. DUNLOP. That is true, but they did not have quite the backbone that we did.

Senator GORMAN. Your line is a bonanza.

Mr. DUNLOP. I will admit it, if you call it that. If I had not known, Senator, that we could carry that load, I would not have taken it on my back. I never attempt to shoulder anything that I can not carry or believe I can carry. I will carry these other roads in the District, too, if Congress will fix it so that I can, and the people will get a better service, but there will not be any money paid to a promoter. It never was done in our case.

We were under bonds. We had \$500,000 of capital and \$1,000,000 of bonds on that capitalization, and I was personally largely interested, and I did not like that situation, to be frank with you. I did not want those bonds outstanding. I did not want them, as has been the history with other companies, to squeeze me out. I used the law that Congress gave us a right to use and put those bonds down on a level with me, and they got there and they kept there. We have had a history, after that, known to everybody. We struggled through that, but the public never paid any of that, nor did any private individual ever lose a dollar by the Washington and Georgetown Railroad Company or the Capital Traction Company. We put those bondholders down where they belonged—on the same basis with the stockholders. Now, if there is anything in it, we make money, gentlemen. We make it by good operation and careful operation.

Senator FORAKER. What do you mean—that you issued stock for the bonds?

Mr. DUNLOP. We issued stock for the bonds and put them all on the same basis.

I do not hear any general howling about the Capital Traction Company service.

Senator FORAKER. What was the amount of the bonds?

Mr. DUNLOP. Four million dollars of bonds and \$500,000 capital. Where would we have been in a little squeeze in Wall street that we could not control? We got from under that pressure. Now everyone is on the same basis. That is where we all ought to be. I do not ask any advantage over any other man, and I do not want him to have any over me.

Senator GORMAN. There are some bonds outstanding now?

Mr. DUNLOP. A million and eighty thousand dollars, issued to put in the electric road after the fire. Those bonds were taken by the stockholders. We never have since sold a bond to anybody.

The people who have owned the road, I will say to their credit, have lived right up to their obligations. They have never denied the management of the road anything it asked for. Whatever we recommend they do, and they will do it again.

Senator FORAKER. You have \$1,080,000 of long-time bonds outstanding?

Mr. DUNLOP. Twenty-year bonds. Nobody will ever buy a bond of any company that I manage who will not get the interest on it if I

have to go in my shirt. We mean what we say, and we do what we say we will do, and we will do it again.

I say to you now that it is my opinion that all of these roads in the District should be under one management, and you would have better service, equal to any in the world, if you had it that way. But we can not make these other people do as we want them to do. We do not expect them to do it until they are forced by the circumstances to do it. They got into the situation in which they are now—and I say it frankly and openly—not knowing where they were going. I have been told by the head of those people that he never would have got there if they had sought my advice and given me the facts in the case.

Senator FORAKER. Do you refer to the Metropolitan Traction Company?

Mr. DUNLOP. I refer to all outside of the Capital Traction Company.

Senator FORAKER. How many are there?

Mr. DUNLOP. I think eleven.

Senator FORAKER. Do you mean in that one combination?

Mr. DUNLOP. They bought up eleven. They bought all the cats and dogs they could find at that time. The promoters made several million dollars, I am told, out of it, and some of them went to Abyssinia and another went to raising hackney horses, and so on.

The CHAIRMAN. Just one word. If those roads had not been built, what accommodations would the people of the District in those localities have in the matter of transportation?

Mr. DUNLOP. They ought to have been built, but the people who operated them lost everything they put in them. And that is the history of all suburban roads. It is going to be the history of this one. The first people will not lose. They always get their own.

The CHAIRMAN. I believe the Capital Traction Company never has gone out of paying territory.

Mr. DUNLOP. The Capital Traction Company has always built its lines. The first roads here were built by the Capital Traction Company, and I saw the first rails laid in 1862. I am perfectly familiar with the whole railroad system of the District. I was here as a boy when the rails were laid and saw them laid. They laid them on the lines which Congress granted the privilege for. They struggled along here for nearly twenty years before they ever paid a dividend, and their history is different from the almost universal history of street railways. They never have been in the hands of a receiver because they had men to manage it who had influence and ability enough to borrow money and keep the roads out of the hands of a receiver and keep going.

They borrowed money—and the books will show it—to pay for the feed of the horses for years and years. They struggled on here for about twenty years, I believe, along through the era of the board of public works. After that, as the city commenced to grow, the then Washington and Georgetown Company commenced to grow. Along in the seventies the company commenced to pay moderate dividends.

Senator FORAKER. What is the total mileage that you operate?

Mr. DUNLOP. Speaking without the data—

Senator FORAKER. Approximately.

Mr. DUNLOP. About 40 miles, including the country roads.

Senator FORAKER. Including the Chevy Chase line?

Mr. DUNLOP. Yes, sir; we have built every extension that Congress has asked us to build. We built an extension out here that is laughable to look at from Eighth street down here to that bridge.

I think some gentlemen here know that we were asked to do it. We did not ask to do it. I told Senator McMillan if it was put in the bill we would build the extension, and we built it and built it promptly. We are operating it on a good schedule.

Senator FORAKER. And you have had practically to reconstruct your lines repeatedly?

Mr. DUNLOP. I have been in there as president of the road and have reconstructed it three times, practically. When I came in they had not finished the cable road. I finished that up, and in five years after it was finished the power house burned out, and we had to equip the road between 11 o'clock at night and 6 o'clock in the morning with horses. We did it. We had a four-minute schedule on the streets, and it never was broken. We did that with hired horses, and replaced them in a week with bought horses. I bought 700 horses in that week and I had my hands on every one of them; paid for them on the street. I equipped the line with electricity in five months.

Senator FORAKER. You started, of course, originally as a horse line?

Mr. DUNLOP. Yes; and we fought our way up to where we are now.

Senator FORAKER. Then you changed to cable and then to the electric system.

Mr. DUNLOP. Back to horses and then to the electric.

Senator FORAKER. Did you ever have overhead wires?

Mr. DUNLOP. Never.

Senator FORAKER. Since you have had electricity it has always been underground?

Mr. DUNLOP. Yes, sir; we have the most expensive system to build of any street railway in the world.

Senator GORMAN. The Chevy Chase line is operated on the overhead system?

Mr. DUNLOP. The line from Rock Creek, Senator Gorman reminds me, is overhead—5 miles from Rock Creek.

Senator FORAKER. You never had any overhead wires in the city?

Mr. DUNLOP. Never a wire. We never attempted it. We never asked to be permitted to put up overhead wires.

We want the most modern road. When the cable was built it was the most modern system known. It was very costly. We now have in electricity the most costly system known to science.

After having done all that, we ask not to be hampered by every little country road that wants to come in and run over us. Let them stop at Thirty-fifth street. We have a building there, costing nearly a half million dollars, for their comfort. The passengers can rest as long as they please. They can, inside of the building, step into our cars. They simply have to walk about the width of this table from one car to another. We will bring them down to the city very comfortably and on very easy terms.

Senator GORMAN. What do you mean by easy terms—less than 6 tickets for a quarter?

Mr. DUNLOP. We will bring them down, if it is necessary, for nothing, and when they go back we will charge the fare, and this road will take them simply over the bridge and turn them over where they get

5 cents straight three or four times before they get to Great Falls. They will find that they will not get to Great Falls for 5 cents. They will carry them over the bridge, a half mile, and they have a right to charge more than we do for 13 miles in the city. When they come over their road to ours, transfer to ours, they can go wherever our system goes in the city.

Senator GORMAN. Without charge?

Mr. DUNLOP. Without charge and simply at our cost of issuing a transfer to them and over and over a transfer. We do not do as some of the other people do—refuse to give a transfer on a transfer. We keep them going. What we do put the embargo on is that they shall not double back on us.

The CHAIRMAN. You protested against transfers with the Metropolitan Company?

Mr. DUNLOP. Certainly.

The CHAIRMAN. Why are you so generous in this case?

Mr. DUNLOP. Do you mean—

The CHAIRMAN. I mean mutual transfers.

Mr. DUNLOP. Simply because they have a system paralleling us all over the city. There is no necessity for it, and it would be a wrong to them as well as to us.

The CHAIRMAN. You decline to transfer where your lines intersect?

Mr. DUNLOP. Where is that?

Mr. THOMAS W. SMITH. First and B, on Capitol Hill.

Mr. DUNLOP. Out here?

Mr. SMITH. Yes; right out here.

The CHAIRMAN. Mr. Dunlop, I do not raise that as an objection to your road, but of course you do intersect the Metropolitan lines at various points.

Mr. DUNLOP. They practically go into the same territory we do.

Mr. SMITH. They do not go out Fourteenth street.

Mr. DUNLOP. They go up Eleventh street.

Mr. SMITH. Not to Columbia Heights.

Mr. DUNLOP. Then let them extend their line. Congress will very cheerfully give them the right to go out there if they want to put the money in. We want to go farther out Fourteenth street, too.

I do not deny—it would be foolish and absurd for me to deny it—that some passenger may not want to start from somewhere in the District of Columbia and go where he wants to go on our lines without paying another fare. Is that done in any city? Is it reasonable? If we had that system, we would have to put an embargo on it somewhere to stop the passengers from going around and around.

The CHAIRMAN. I did not raise the point as an objection to your methods or those of the Metropolitan Company.

Mr. DUNLOP. I am willing to answer any questions.

The CHAIRMAN. But you rather surprised me by your generous offer, so far as the Virginia roads are concerned, to carry their passengers over this District for nothing, when you do not transfer with existing competing lines. There will be several roads coming from Virginia.

Mr. DUNLOP. We have offered that to all the suburban roads. It is a standing offer. It was with the Washington and Georgetown Company. Take the Tenleytown road, for instance. When they built that road they sought us, and wanted to transfer, and Mr. Hurt, my predecessor (and I know about it because I happened to be present),

said, "You do not want that; you can not stand it. I know that you will want an additional fare both ways to maintain that road, and you do not want transfers." Oh, they were hot for it. They wanted it. "Very well," he said, "I will transfer with you free." That offer is open yet. They thought the thing over for a little while, and they did not ask for it any more.

We made the same offer to the Brightwood people. They did not want it. They want two fares where a man goes into the country and gets out of the District. We will transfer with any suburban road free. Is that too generous?

MR. THOMAS W. SMITH. Mr. Chairman——

MR. DUNLOP. I decline to be interrupted now. Then I should——

MR. SMITH. I have but a remark to make, if you will allow me to interrupt you for a moment.

There are a large number of gentlemen here from various parts of the city, interested in different localities, who would like to be heard by the committee. It is now twenty-five minutes of 12 o'clock, and the Senate will convene at 12 o'clock, and it will simply be impossible to hear one-half of them.

THE CHAIRMAN. In response to the suggestion I will say, that when we get through to-day this hearing will be adjourned until 10 o'clock on Saturday. General Harries is not physically able to address the committee this morning, and out of courtesy to him and to the citizens this hearing will be adjourned until Saturday if my colleagues on the committee agree to that proposition.

MR. SMITH. I beg pardon for interrupting.

Senator STEWART. We all agree.

Senator FORAKER. I agree to that, but I think there should be some reasonable restriction upon the amount of time gentlemen shall take. We are all too busy to sit here and listen to long addresses.

MR. DUNLOP. If the committee is wearied by anything I have said I am willing to retire.

Senator FORAKER. Mr. Dunlop is opposed to this bill, and we know the reasons why.

MR. DUNLOP. I am trying to tell you why and to answer any questions you gentlemen may ask. I say that these people can come from Virginia——

Senator SIMMONS. Let me ask you a question. I understood you to say that you regard this bill as an invasion of your rights.

MR. DUNLOP. We do.

Senator SIMMONS. Do you complain of any invasion of your rights except the running of the street cars of this new company over your tracks from the Aqueduct Bridge to M street?

MR. DUNLOP. Have you finished your question?

Senator SIMMONS. Yes.

MR. DUNLOP. Yes, sir. After leaving our tracks for the 10 squares on which they invade our tracks, they then invade our territory.

Senator SIMMONS. Oh, yes; your territory!

MR. DUNLOP. The territory adjacent to our road. It is an invasion all along the line. We are prepared to carry these people. We are equipped to do it. We have spent millions of dollars to do it, and we believe that Congress is not willing to break down, I was going to say, the only company in the city that does give as near as possible a perfect service. If you take away our fares by edging in on these

receipts, the inevitable will come, and you will have a state of affairs on Pennsylvania avenue, Fourteenth street, and Seventh street—if you carry that principle out—that will shock this city.

Senator SIMMONS. That is an invasion of your rights, but you say the balance will be an invasion of your privileges—your patronage?

Mr. DUNLOP. Yes. There are certain other things in the bill that I do not care to discuss—that I do not think you want me to discuss—that I think are wrong.

Senator SIMMONS. Is there any other convenient or practical way for this road to reach M street except over your track?

Mr. DUNLOP. I do not know that I can answer that.

Senator GORMAN. On the east side of Rock Creek.

Senator SIMMONS. I mean M street. Is there any other practical route except over your track?

Mr. DUNLOP. Yes; if they are going to build what they are talking about, a cross-town line—

Senator SIMMONS. I mean the route as outlined in this bill. Is there any other practical line, starting from the Aqueduct Bridge, to get to this main line except over your track from the Aqueduct Bridge to M street?

Mr. DUNLOP. Why, they could do it as conveniently as any other route. I may say that; but their point of starting is at Great Falls, we will say. If they wanted to get down through the center of the city, east and west, they might have come over the Chain Bridge and struck the center of the city.

Senator SIMMONS. I am asking you in reference to the line specified in the bill. Is there any other practical route from the Aqueduct Bridge to M street except over your track?

Mr. DUNLOP. No; I think not. That is, they could diverge from it after coming down two or three squares. They might go north and get opposite the center of the city, of course, but to get down to M street east of Rock Creek, the most feasible route, of course, from their standpoint, is to go over our tracks.

Senator SIMMONS. After they get to M street there is no other invasion of your rights except an interference with your patronage?

Mr. DUNLOP. Oh, yes; they would cross our lines at a very dangerous point when they get to Fourteenth street. They come to the circle occupied by the Thomas statue, and M street will lead them right onto our tracks. They have got to occupy our tracks around that circle to get to M street on the opposite side, and there you reach a point which, of course, will be a very dangerous one.

I did not propose to touch on that, because I have heard a good deal about what the citizens are going to say. I had not thought to touch that subject at all.

The CHAIRMAN. Mr. Dunlop, did your road protest against the building of the Metropolitan Road which parallels your line?

Mr. DUNLOP. Did it?

The CHAIRMAN. Yes.

Mr. DUNLOP. Oh, yes, sir, in the beginning, where it paralleled our line.

The CHAIRMAN. That is what I inquired about.

Mr. DUNLOP. We have not protested against the extension of their lines.

298
The CHAIRMAN. Oh, no; where they did not in any way interfere with your line, of course not.

Senator DUBOIS. Mr. Dunlop, as I understand the discussion you think you could give better service to the District and extend your lines when more service is needed better than if other roads come in; that it would be better not only for the people generally, but for your road, for you to do the extending and not allow new lines to come in. That is your general proposition?

Mr. DUNLOP. I think that goes without saying. Whatever good there is in one place makes up for the loss to that company that they have to sustain in accommodating some other points that do not pay. Now, if you put the nonpaying roads all to themselves they must eventually go out of existence. The effort was made here by Congress—I think some of the Senators present are familiar with it—to bring all these companies together; and before that is done, here comes in the proposition to introduce new roads down into the city. The suburban roads ought to be built, and can be built as time passes along, and transfer to the city lines. We are perfectly willing to take those passengers.

Senator DUBOIS. You think the public would get all the service they require and get better service if the present condition is not interfered with?

Mr. DUNLOP. I do; most emphatically and frankly.

The CHAIRMAN. I am sorry to interrupt you, Mr. Dunlop, but we have given you a good deal of time this morning.

Mr. DUNLOP. Gentlemen, I am very much obliged to the committee for hearing me. Something may transpire during the talk of these other gentlemen about which I may want to say a few words.

The CHAIRMAN. Certainly. We have twenty minutes remaining. Mr. Smith, do some of the citizens want to be heard?

Mr. GOLDSBOROUGH. Mr. Chairman, I would like to be heard for one moment.

Mr. THOMAS W. SMITH. The East Washington Citizens' Association, Mr. Chairman, will wait until Saturday.

The CHAIRMAN. Very well. You may proceed, Mr. Goldsborough.

STATEMENT OF RICHARD H. GOLDSBOROUGH.

Mr. GOLDSBOROUGH. I only want to say this, Mr. Chairman. Mr. Dunlop, who represents a corporation that we all know is very ably managed and a credit to the city, due to the character of its management, has, however, in representing the merits of his company, which he has a perfect right to do, gone out of his way, I think, to reflect upon the bonafides of the gentlemen who are stockholders in this new company and behind this proposition.

Mr. DUNLOP. That was a mere opinion, you know, as I said.

Mr. GOLDSBOROUGH. I understand it was an opinion, but my relations to some of those gentlemen, and notably one of them, who is very largely interested in this road, Mr. McLean, are such that I do not think I could with propriety hear that without a protest.

I will say to the committee that if they see proper to grant this charter Mr. McLean and the other gentlemen back of this road will put up a forfeiture to any amount of money that the committee may see proper to guarantee that this road is completed from beginning to end within as short a time as it is possible to build it.

I did not propose to say anything here to-day, and I would not have done so except for that reflection.

The CHAIRMAN. Before any more time is consumed the Chair will take the liberty of suggesting to the various gentlemen present that if they will kindly register with the clerk of the committee before going out, stating whether they are for or against this proposition, it will be an accommodation to the committee, and as each individual citizens' association, there being several in the city, may wish to be heard they had better select one gentleman to represent each association.

Now, gentlemen, we have a few minutes remaining. Either side may occupy the time.

STATEMENT OF ALLAN L. McDERMOTT, PRESIDENT OF THE WASHINGTON RAILWAY AND ELECTRIC COMPANY.

Mr. McDERMOTT. Mr. Chairman, I understand General Harries is to represent the combination of railroads alluded to by Mr. Dunlop before the committee. I think, however, I might give a few figures that the citizens who advocate this road may take into consideration between now and Saturday.

After the roads were consolidated—that is, consolidated in a stockholding concern—and there was reorganization, it was found necessary to improve the railroad service of Washington. Within four years we have expended in improving the streets of Washington and what are called the country roads nearly \$4,000,000. I might illustrate it with the Anacostia road, which has been reconstructed at a cost of \$1,250,000. That money was contributed by people who reside outside of the District of Columbia. Notwithstanding this additional expense we find the road in a nonpaying condition, simply because it is built ahead of time; yet, notwithstanding that expenditure, Congress orders us to extend that line out Eleventh street at a cost of about \$150,000. A bridge is to be reconstructed. An additional burden of nearly \$100,000 is placed upon us to reconstruct that bridge. It was proposed in the bill when it was before the House to charge us one-quarter of 1 cent for every passenger who went over the bridge—a most ridiculous proposition.

Senator GORMAN. You refer to the bridge over the Eastern Branch?

Mr. McDERMOTT. Yes. This provision the House struck out, on explanation.

The Brightwood road—I see some of the Senators are grumbling about the service out there at present—is run by the main system at an annual loss of over \$25,000. I was appointed receiver of the City and Suburban road by the District court and by the court of Maryland. That road is operated economically. The citizens along its line, however, get the benefit of every dollar that is taken in, and the loss to those who own the road within the last four years has been something like \$200,000. The loss during the year I was appointed receiver was \$64,000.

Now, the answer made in the newspapers is that all of these roads ought to be fed out of the main line. The system is this: The old Columbia, Metropolitan, and Great Falls roads are owned by the Washington Railway and Electric Company; that is, we own the physical property. In all others we are a stockholding concern. There is no obligation whatever upon us to expend the money we receive in the paying part of the property to run the outlying roads. My first impres-

sion was they should all be run by a receiver. If the Brightwood road was run by a receiver to-morrow somebody would have to find \$25,000 every year for the next ten years in order to give people their present service.

The road which is proposed here parallels practically the City and Suburban Railroad. The City and Suburban does not pay. From the day of its inception it has been a continual loss to everybody who has had anything to do with it; first a loss as a horse-car system, then a loss as an underground system, and then a loss as extended out into Maryland. It is giving fair service. In my judgment it is giving a great deal more service than the people pay for. It is proposed by this bill to parallel that road. There is absolutely no demand, in my judgment, and with some knowledge of railroading, for any parallel road. Whether there is behind the road a scheme and desire, by interference, to effect consolidation, I do not know. I know it will not be effected. The City and Suburban Road is in the hands of a receiver, and until it has exhausted the power of the court in the matter of obtaining funds to run it, there will not be any consolidation with this paralleling proposition.

But is it fair for a legislative body, having granted charters, having encouraged the owners of the property to spend millions of dollars—when they have arrived at the point that they have given this city the best railroad system in the world, to parallel that system? Outside of the Capital Traction system there is no better system in the world than can be found in the roads known as the City and Suburban, the Metropolitan, the Columbia, and the Anacostia roads. There has been no limit of expense, simply because the expense was not confined to tribute from the people of the city of Washington. The people of this city did not pay for the rebuilding of these roads. In the case of the Brightwood road we have spent about a million dollars in four years. There were two streaks of rust there. That was about all there was of it. The reports show that the cars could hardly stand on the tracks. We spent half a million dollars in reconstructing that road. It is a feeder into our system, and if it is going to feed another system then you subtract from the general proposition, which I may term the Washington railroad and electric system, the power to give good service to the city of Washington.

Whether or not in the streets where there are no railroad tracks to-day some additional service should not be afforded may be a point of dispute. There is room for argument. In my judgment that service will be a good deal better given by some system of automobile carriages that will not be bound to any given course or track, but would feed all the railroads by gathering the passengers up in those different sections.

I have these figures in mind, and, representing the City and Suburban road as an officer of the court, I thought it my duty to present them to the committee. General Harries will speak for the system as a whole.

Senator DUBOIS. Let me ask you one question, Mr. McDermott. Is it your opinion that this contemplated road would not pay the people who build it?

Mr. McDERMOTT. Of course it will not pay. There is a way of ascertaining whether a road will pay or not. That is by counting your parallelism, counting your population, taking the cost of construction,

capitalizing it, and applying the possibility of the territory that it runs through as a contributor to the road. Those rules are not arbitrary, but you can get a very fair guess whether a railroad is going to pay or not. For instance, as to this road in Virginia. I think Mr. Dunlop rather copied my expression. When I first studied the proposition I said it would not pay for the oil necessary to lubricate the trucks. There will be no day in the next twenty-five years that this road, running through its laid out route in the State of Virginia will, in my judgment, pay the wages of the motormen and conductors. That is a matter, however, for those who are putting their money in to consider.

When, however, you attempt by parallelism to subtract from existing roads in which, in good faith, following a policy of Congress, millions have been expended, then it seems to me it is not a matter merely of offering to build a road, but of right to those who have built it.

The CHAIRMAN. Mr. McDermott, just a word. You speak of this road paralleling the City and Suburban road. How many blocks away will it be from your existing line? I ask for information merely.

Mr. McDERMOTT. It will be four. I have had a map made of it, and I will furnish it to the committee.

Senator FORAKER. What is the route of the City and Suburban?

Mr. McDERMOTT. The City and Suburban runs from the corner of Fifteenth and G streets east; then it branches off into the country. It is rather a difficult thing to say what the route of it is, because it feeds Maryland and furnishes Maryland with a road. I have a map of all the roads of Washington, and I will be very happy to furnish the committee with it.

Senator FORAKER. I was not aware that it paralleled this road except for a very short distance.

Mr. McDERMOTT. Anything going east and west will parallel it. It parallels the system. The only way you can treat with the Washington Railway and Electric Company is by treating the whole as a system. The Washington Railway and Electric Company owns, I think, two-thirds of the stock of the City and Suburban, and this year, by good fortune, it has paid the interest on its bonds. It has, however, a floating debt of \$300,000 that was used in the reconstruction.

The CHAIRMAN. I was attracted, Mr. McDermott, by your observation that some system of automobiling might be adopted that would meet the popular demand. That is impracticable, is it not, in the matter of cost?

Mr. McDERMOTT. I think not. The future of electric transportation is going to depend somewhat on the experiments that are now being made by Mr. Edison. I had hoped these experiments might be made in the city of Washington. I am satisfied that if the batteries can be decreased in weight there will be a revolution in the idea of automobiling; but even with the present weight and the present cost, while there might not be any profit in it, I think it would not be an unjust burden to put on one or both or all of the existing roads to provide that they should feed certain portions of Washington with automobiles. They are doing it in Chicago with some success. We had one brought on here from Chicago and experimented with it. I was not wholly satisfied that it was practical in its present condition, but I am satisfied it will be within a year, and I am assured by those who have the expression from Mr. Edison that he thinks he has solved

the problem of light-weight batteries. If he has there is no reason why this residential section of the city of Washington that is not now traversed by railroads should not be furnished by automobiles. It would not interfere with the beauty of the city and would be the practical thing to do.

The CHAIRMAN. I will say to the members of the committee that we have in the committee room a map showing the routes of all existing lines. It has not been exhibited this morning because it would of necessity interrupt the hearing; but if any Senator or any citizen desires to see it, the clerk will be pleased to exhibit it. It is now almost 12 o'clock, and this meeting will be adjourned until 10 o'clock on Saturday morning.

Mr. DUNLOP. Mr. Chairman, I want to make one explanation which I think is due to the committee as well as to myself. One of the Senators asked me if we had opposed the extension of the Metropolitan line.

Senator HANSBROUGH. The Chair asked it.

Mr. DUNLOP. I thought you had reference to recent years. If you had reference to the building originally of the Metropolitan line, there was no resistance to it.

The committee (at 11 o'clock and 55 minutes a. m.) adjourned until Saturday, March 26, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *March 26, 1904.*

The committee met at 10 o'clock a. m.

Present: Senators Gallinger (chairman), Stewart, Dillingham, Foster of Washington, Gamble, Martin, Mallory, Simmons, and Dubois; also Marion Butler, representing the Great Falls and Old Dominion Railroad; George H. Harries, vice-president of the Washington Railway and Electric Company; George T. Dunlop, president of the Capital Traction Company; Thomas W. Smith, and others.

The CHAIRMAN. Gentlemen, we will proceed with the hearing that was adjourned on Thursday last to this hour.

The committee have in their possession various protests and letters in reference to the contemplated new railroad, concerning which it may be well to briefly make a statement. The Chair has in his hand several protests, more or less numerous signed by residents on M street and in the vicinity of Thomas Circle, against the laying of a railroad on M street.

Also a protest from owners of property between Ninth and Tenth streets NW, and the official members of the McKendree Methodist Episcopal Church, situated in the same square, against the laying of any street car track on Massachusetts avenue between Ninth and Tenth streets NW. Also a letter from Rev. Dr. Butler, protesting against the proposed cross-town railroad along M street NW.

A letter from Mrs. Helen E. Coolidge and Mrs. Margaret B. Coolidge—

Senator DUBOIS. On what grounds are the protests, Mr. Chairman; are they all the same?

The CHAIRMAN. That it will be detrimental to the interests of the property holders.

A letter from Mrs. Helen E. Coolidge and Mrs. Margaret B. Coolidge, Brig. Gen. L. P. Graham, George A. King, in behalf of All Souls' Church, and H. E. Williams, in behalf of the Church of Our Father, all protesting against the laying of a railroad on L street NW.

Senator DUBOIS. Do they protest against the laying of a railroad anywhere, or on a particular street?

The CHAIRMAN. I think they are all willing that their neighbors should have a railroad.

A letter from S. G. Moyer, of the Department of Justice, in favor of the building of the Great Falls and Old Dominion Railway line in the District of Columbia.

A protest by Joseph M. Saunders, attorney-at-law, against the laying of a railroad on Tenth street NE., on the ground that it is one of the narrowest streets in Washington, being only 80 feet wide.

A protest by Paul E. Johnson, accompanied by a petition, against the laying of a railroad on L street NW.

A letter from W. J. Morris, 1214 L street, apparently in opposition to the laying of the road on that street, and raising the question as to whether public interests demand a cross-town railroad.

A protest likewise of citizens on Tenth street east against a railroad.

A letter addressed to one of the Commissioners of the District of Columbia, which has been referred to this committee, signed by David R. McKee, which seems to be a protest against placing the railroad on L street.

Mr. McKEE. It is that and a good deal more. It is not that, in fact, at all, Mr. Chairman.

The CHAIRMAN. Mr. McKee will have an opportunity to speak for himself.

Mr. McKEE. Yes, indeed.

The CHAIRMAN. There is a long list of gentlemen who desire to be heard this morning. The Chair will suggest that the various gentlemen who are to address the committee ought to be as brief as possible. Is Mr. Thomas W. Smith present?

Mr. SMITH. Yes, sir.

The CHAIRMAN. Mr. Smith, you represent what?

Mr. SMITH. The East Washington Citizens' Association.

The CHAIRMAN. How large an association is that?

Mr. SMITH. It is composed of 100 members or more and has been in existence for thirty years.

The CHAIRMAN. Has the association taken any action in regard to this matter?

Mr. SMITH. It has.

The CHAIRMAN. What action?

Mr. SMITH. The chairman of the committee on street railroads, Mr. W. Mosby Williams, is here and will represent the association before the committee.

The CHAIRMAN. The committee will be pleased to hear from Mr. Williams.

Senator MALLORY. Before Mr. Williams goes on, are we proceeding under the substitute bill or under the original bill or under both bills?

The CHAIRMAN. I think we have been hearing the entire question. It will be for the committee to take up the two bills, Senator Mallory, after the hearing closes, and consider them together.

STATEMENT OF W. MOSBY WILLIAMS, CHAIRMAN OF THE COMMITTEE ON STREET RAILROADS, EAST WASHINGTON CITIZENS' ASSOCIATION.

Mr. WILLIAMS. Mr. Chairman and gentlemen, this association is composed of business men and public-spirited citizens of East Washington. The territory covered by the association is the section east of the line running north and south through the Capitol. In that section there are about 75,000 inhabitants, or in other words, about one-fourth of the population of the District. It is a community to a certain extent by itself, certainly at the present time with reference to street railroads, the north and south sections not having any connection. We indorse the proposed legislation because it is the first legislation proposed that has offered us any relief in this regard. It is also indorsed by several other citizens' associations in this section.

In that connection I would call your attention to the fact that in the part of the city referred to where there is about one-fourth of the population we have not a single north and south road, whereas west of this dividing line, or in the northwest, there are seven street railroads running north and south; that is to say, Fourth street or Le Droit Park, Seventh street, Ninth street, Eleventh Street, Fourteenth street, Connecticut avenue, and the Tenleytown road. If you include North Capitol street, which is the dividing line, there are eight lines. Certainly to be fair to our section we would be entitled to two roads according to population, but we are not asking that. We are only asking for one cross-town road in this section at the present time.

In addition to that, we will be satisfied with any street from Fifth to Thirteenth street. We are not particular as to the details of the streets. We are not particular about whether there shall be two tracks on one street or whether there shall be single tracks on separate streets.

Now, what is the situation in the southeast? We have a high school which is attended by 700 scholars, and my understanding is that all of the scholars from these two sections—the southeast and the northeast—are some half or three-quarters of a mile from this school, situated on Pennsylvania avenue between Seventh and Eighth streets SE. All have to come to the school. How can they get there? To walk is the best way. There is no way to ride unless they go away northwest to, I think, Ninth or Eleventh street and transfer. They can walk in less time than they can ride.

Then, in the southeast we have the Eastern Market, the only market in this section, with 75,000 population. That is on Seventh street and North Carolina avenue. Then we have the navy-yard, with about 3,500 employees, at the present time I am told, which is, I am also informed, about double the number of employees of ten years ago; and during the past ten years, bear in mind, we have had no improved railroad facilities.

In this part of the city we have a very prosperous first-class national bank. A great many of the citizens in the northeast, in addition to those in the southeast, deal with this institution. They have to walk if they have not a conveyance, or they have to go to the northwest, in order to get to it. Then, of course, we have the Congressional Library, and a very fine Masonic Hall, which is used by the Masonic bodies in the eastern section of the city.

In the northeast there is the Government Printing Office, at which, of course, as the members of the committee know, a great many people are employed, and a large number of them live in the eastern section of the city, a number of them in the southeastern section. There are no direct transfer or street-car facilities to get there. Again, there is the Deaf and Dumb Asylum Institute, where, during the present time, even with regard to persons in the northwest there are not the proper street-railroad facilities; and the suggestion which I propose to make to the committee in reference to a change in this bill would certainly bring that in touch with all sections.

Then there is in the northeast Mount Olive cemetery; and another very important point in the northeast is this. At Fifteenth and H streets all of our citizens take the cars to the Chesapeake Beach road, which leads to a summer resort, but it also leads to Prince George County, in Maryland. Before the building of that road, in order to get to the county seat of that county, where the citizens of the District have a great deal of business, we went to the Sixth street depot. I have never traveled that way, but I believe it is necessary to make a transfer on the steam railroad, and while it is not a very great many miles, it is practically a day's trip to go that way; whereas the Chesapeake Beach road is a direct road now. Formerly the citizens, particularly of southeast Washington, got on the cars of the Capitol Traction road or possibly the extension of the Anacostia road and went to the Sixth street station; but not so now. They have to go to Eleventh and New York avenue, and over the H street line, a distance of 5 miles, to get to the depot of this new steam railroad in order to traverse a distance of about a mile.

We say that the lack of a cross-town road in East Washington is a discrimination against our section. When I make that statement I do not mean to say that it is the fault of any one in particular or that it is the fault of the railroads, but I maintain that, nevertheless, our failure to have the facilities in East Washington, with its population of one-fourth of the inhabitants of the District, is a discrimination, and I will point out one instance which I have seen in the public press within the last day or two.

For the last three years the baseball grounds have been out here at Thirteenth or Fourteenth and Florida avenue. According to the press reports they have this year located at Seventh and Florida avenue, and they have done so principally because of the fact that the street-car facilities to get patrons out there and get them away are very much better. So I should say that the press reports in that regard are true, because the press reports further show that they have a lease on the grounds in the northeast for two years, and there certainly must be a reason for a change in view of that lease. I say that it is a discrimination against our section.

We not only lose the benefit of the proper intercourse, but the trade with the citizens of that section would come as a result—

The CHAIRMAN. Mr. Williams, excuse me for suggesting that there is a large number of gentlemen to be heard, and we can not give any one much time. We would like to give you all day if we could, but we can not.

Mr. WILLIAMS. How much more time may I have?

The CHAIRMAN. Two or three minutes.

Mr. WILLIAMS. To be very brief, then, we ask that this proposition

cover three points: First, a cross-town road reaching from the navy, yard to Florida avenue. In that regard the present proposed route is objectionable to us. It does not go far enough north. It only goes as far as F street. Our association would be satisfied if there was an additional route out M street to Florida avenue and down Tenth street, which would permit alternate cars, one going to the navy-yard and one to the cemetery, as suggested by the Commissioners. It is objectionable again in the southeast in that it would cut into a playground. Of course that could be avoided by running around the public square.

With this cross-town road, covering about a mile and a quarter, transfers would be a great service to us. We must have transfers to make it of material service to our citizens.

Again, the penalty clause suggested in the substitute bill——

The CHAIRMAN. Mr. Williams, I think it will be idle for you to discuss the details of the bill. The question that the committee wants to ascertain is whether a cross-town railroad is desirable, and having ascertained that, the committee will try to draft a bill,

Mr. WILLIAMS. Then, Mr. Chairman, if that is the situation I think with regard to East Washington our case need not stand or fall by this particular legislation. We can rest it upon and submit as our brief the report of the Commissioners on the subject, at the bottom of page 3, particularly.

In conclusion, I want to say that we ask, in the interest of this section, a cross-town road. It is, of course, in the wisdom of the committee, to give it to us in the legislation establishing a new road or in legislation extending one of the present roads. I am frank to say that if the committee does not favor the new road and does favor an extension of one of the present roads, as the Commissioners have suggested, for instance, the extension of the U street line of the Capital Traction down Florida avenue and, I presume, down Eighth street, although the printed report says B street, to connect with the Avenue line in the southeast, that, I think, would be satisfactory to us with the transfer arrangement.

I thank you.

The CHAIRMAN. General Yoder was promised five minutes. Is he present?

Mr. YODER. Yes, sir.

STATEMENT OF S. S. YODER, OF THE EAST WASHINGTON CITIZENS' ASSOCIATION.

The CHAIRMAN. General Yoder, do you represent the same association that is represented by Mr. Williams?

Mr. YODER. Yes, Mr. Chairman.

The CHAIRMAN. You may proceed.

Mr. YODER. I will take but a few minutes. I do not think it is necessary to elaborate upon the need for this road. I came to Washington some eighteen years ago. I live over in that section and have invested everything I have in real estate. I would like to see improvements going on there. Our Citizens' Association has always been very conservative. They have never been known as fault-finders or as kickers. We are the oldest association in the city.

It is not your fault, gentlemen of Congress, that we have not this

facility—the cross-town railroad. You granted the franchise to the existing company some years ago and we have asked them, we have petitioned them, and we have prayed them for these improvements. We have never received them; and now, when the Great Falls and Old Dominion road comes in here and says, “We are ready to build; we are ready, if we can get a cross-town line, to give you the accommodations you ask for,” it seems the existing lines are ready, and they say they can build much cheaper. We were told the other day that that this road would never pay. Some of the existing lines are very much worried for fear that this road will not pay, and they appear to find a great deal of fault about the speculators and promoters and the men back of it. Now, gentlemen, it is not necessary for me to say to you who is back of that enterprise. They are some of the best men of this nation, men of character and ability and push, men who have built railroads.

Why, the Capital Traction Railroad would not make a link in the roads they have constructed. They know what pays and what does not pay, and we of the East Washington Citizens’ Association do not care whether it pays or not. We want our facilities, and if one company does not give them we want other companies to construct them.

We are not the guardians of people who invest their money in watered stock; \$16,000,000 in a little corporation is too much water and not enough railroad. They do not touch on the point when they tell you why railroads do not pay. They do not tell you that they start out with a small franchise and a small capital and they reorganize and consolidate. The astonishing statement was made here the other day by the representative of the Capital Traction Company that the only way to guarantee the citizens their rights and their facilities and proper transportation and proper accommodation was to consolidate everything into one corporation.

Why, as long as we have no parallel lines, competition is the only safeguard we have. We old fogies over in East Washington always thought competition was the thing that gave us accommodation, and here they ask you to put it all in the hands of one man, and I suppose the manager of the Capital Traction Company would be the proper man to manage all our affairs. He says you are invading his rights when you are going on to public highways. I did not know Congress had ever granted exclusive and perpetual rights to anyone or to any corporation. I think they are limited. It is not necessary, however, to talk about that. You know what the law is.

I think, gentlemen, the men back of this line are going to make it pay, and nobody knows it better than the owners of the existing lines. It is going to be a paying investment. We are not here decrying, or disparaging, or finding complaint with the existing corporations. They have always been very kind and accommodating to the people; but competition is necessary. You are not going to allow a corporation to parallel their own line and put us at their mercy. I think the Supreme Court has said something about mergers and has said they are illegal. We do not want a monopoly here. We are not interested in the Great Falls and Old Dominion Road as stockholders. We do not care anything about it, but we want these facilities, and we know that competition is the only thing that will give them to us.

With regard to the fault found on M street there would be protests on any line. I own some property on Tenth street, and I did not

know anybody was complaining about that, and here we have several protests this morning. You will find protests all the time. You will find a little corner groceryman who wants the railroad, a poor man who has to walk and has not an automobile to ride in. He depends on the wealthy people on that line for his patronage. He signs a petition for a street railroad and the wealthy man comes around and says, "You must not do that; if you do I will not patronize you any more;" and he sends in a protest the next morning in order to keep his patronage, but praying that the road will come all the time.

Gentlemen, I thank you.

STATEMENT OF EVAN H. TUCKER, PRESIDENT OF THE NORTHEAST WASHINGTON CITIZENS' ASSOCIATION.

The CHAIRMAN. Mr. Evan H. Tucker, who represents the Northeast Washington Citizens' Association, will be heard briefly. Mr. Tucker, what is the membership of your association?

Mr. TUCKER. I think about 150.

The CHAIRMAN. Has your association taken any official action in regard to this matter?

Mr. TUCKER. It has.

The CHAIRMAN. What action?

Mr. TUCKER. Our association, by motion, approved the general proposition for a cross-town line from east to west and from north to south, for the reason that we want facilities. Our association takes the position that we want additional street-railway facilities that will give us good accommodations and good service, and that we want the first that will come in the field to do it. This is the first in sight. That is the reason we approve the proposition.

Gentlemen, if I should make my argument as I intended, I should cover a good deal of the ground that has been covered by Mr. Williams and General Yoder; but I will endeavor to say only what they failed to say. In regard to the north and south proposition, Mr. Williams has stated it fully, and I do not think I could add to his statement. In regard to the east and west proposition, he touched it very lightly, and I think a few words will help to give you some light on that subject.

We in the northeast have now the East Capitol street line, which you know, a line running on C and D streets, the cars running east on one street and west on the other, and the next and most important line east and west in our section is the Columbia line on H street, which is the principal business thoroughfare of northeast Washington and which leads to the country roads, the Bladensburg road and the Bennings road, and thereby carries an immense amount of traffic. It also leads direct to the Treasury Department in a very populous part of the northwestern section, and stops right there.

Now, gentlemen, that road furnishes our main facilities for street-railway traffic. The road is poorly managed. It gives us a very poor service and very poor cars. All this winter, during the zero weather, snow storms and rain storms, we had open cars on that line and for a part of the winter nothing but a combination car which is two-thirds open. If the Capital Traction Company paralleled that line or if any other good, well-managed road paralleled that line, we would not have had an open car on it, and we would have had good service.

We have to stand up in those cars most of the time. They are crowded, congested, and poorly managed in every way. We think a parallel line there would be very beneficial indeed for our section of the city.

THE CHAIRMAN. How near to the existing line would the parallel line be?

MR. TUCKER. Two squares.

SENATOR MALLORY. North or south?

MR. TUCKER. South; but we would like to have a line north also. There is a large territory there north of H street that is very much in need of street-car facilities; and I want to say right here that I approve the proposition of Mr. Williams that that north and south line should run all the way to Florida avenue so as to accommodate the people at Kendall Green and in that section up there, and if possible a line to run all the way through M street and Florida avenue to Tenth or Eleventh street would be a vast benefit to a large section of the city.

MR. BUTLER. Mr. Chairman, if the gentleman will pardon me a moment, I wish to say that this company is in favor of the suggestion just made by Mr. Williams, and we are ready to accede to it.

MR. TUCKER. Mr. Dunlop the other day suggested that the existing lines would be very glad to make these extensions whenever they are required. I want to say to the committee right now that we made a proposition to Mr. Dunlop, the president of the road, and to Mr. Glover, the vice-president, ten years ago to make this very extension which the Commissioners suggest in their report, and we were told that they would do it just as soon as the population out there justified it.

Gentlemen, I want to say just one word on that point. No railroad has ever been built, that I know of, where the population justified it. There never was a street railroad built, that I know of, that paid at the beginning. Street railways are the greatest developers of any territory. You put them there and they commence to pay after they are put there; and if the Capital Traction Company had gone into that field ten years ago, when we suggested it, it would have been a paying line to-day. There is no doubt of it in the mind of anybody who is familiar with that territory.

In regard to the parallel lines, we have now the C street and D street line. There was no clamor for that road. Nobody was crying for a line between East Capitol street and the Columbia line, but it was put there, and I think in the course of two years' time it was a paying line—that is, the urban portion of it. If you put a line, as we suggested to the Capital Traction Company, up Eighth street, I do not expect it to pay the first year, but in the course of two or three years it will pay, and I say the same thing about this parallel line east and west, but there is enough patronage there to support two more lines, one on F street and another one on M street.

The citizens of northeast Washington are not in favor of any particular street. We do not want to trample on the corns of the Tenth street people or the Eleventh street people or any other people, but for the general good we want street-car facilities; and we suggest to you, gentlemen, in your wisdom, that it be put on the most available street to furnish the service, without regard to private interests.

We have in our association people who live on Tenth street, Eleventh street, and Eighth street, and in the action taken by our associa-

tion we did not trample on the corns of anyone. We came out in a general way and said, "We want these facilities; we want them put on the most available street, probably the widest street, or, if in your wisdom you see fit to have the line go up one street and down another, with a single track, we will be perfectly satisfied, so you give us the facilities.

I think it is hardly necessary for me to elaborate on this proposition. We do not want to offend our friends in the northwest by suggesting that the new road come down M street; but this is the only proposition in sight to give us the facilities we need, and we must approve it in a general way to get the facilities that have been so long required.

The CHAIRMAN. The next name on the list is that of J. M. Wood, representing the East End Suburban Citizens' Association. Is Mr. Wood present? He does not seem to be.

Is Mr. Barry Bulkley present, representing the Business Men's Association?

Mr. BULKLEY. Yes, sir.

STATEMENT OF BARRY BULKLEY, SECRETARY OF THE BUSINESS MENS' ASSOCIATION.

Mr. BULKLEY. Mr. Chairman, we have 700 men in the business world as members of our association, and I would like to record it, not only as my personal conviction but as the conviction of that entire membership, that this road is a necessity. We go in our association upon the basis of the greatest good to the greatest number. I am quite well aware that some inconvenience will necessarily be put upon some people if this road is forced to run in certain localities.

We do not care to discuss those details at all. We are perfectly willing to abide by the common sense of the Senate and the Commissioners of the District of Columbia; but we do say, and we say most emphatically, that a cross-town road is not only a necessity, but it has been for some years something most wanted in the District of Columbia. It is an unusual circumstance that a city of over 300,000 people can not boast such a public convenience.

I wish to record that not only as my own conviction but as the conviction of 700 business men of the District of Columbia.

The CHAIRMAN. Let me ask you, Mr. Bulkley, has your association taken any official action?

Mr. BULKLEY. No, sir; no formal action, Mr. Senator, but I am in thorough touch with the sentiments of the members of the association.

The CHAIRMAN. Is Mr. Milford Spohn here, representing the Central Labor Union.

Mr. SPOHN. Yes, sir.

STATEMENT OF MILFORD SPOHN, REPRESENTING THE CENTRAL LABOR UNION OF THE DISTRICT OF COLUMBIA.

Mr. SPOHN. Mr. Chairman and gentlemen, I am here representing the Central Labor Union of the District of Columbia. It is a central representative body, composed of 450 delegates, representing 20,000 members of the organized trades of the city of Washington.

In last January this bill, No. 2833, was unanimously indorsed by the central body, and since then I have ascertained that the indorse-

ment of the measure by the central body has been fully and unanimously indorsed by every one of the 90 labor organizations represented in that body. In other words, these 20,000 people, who are street-car riders—not one of them has a hack or a team—have to go, every working day in the year, from one portion of our city to another, and a street-car line to them is very necessary.

They therefore realize the fact that both the Capital Traction Company and the Washington Railway and Electric Company have not been true to the interests of those 20,000 people, because they have forced them, at great inconvenience in some instances, in the building trade particularly, on account of the location of the work, to walk a mile, a mile and a half, and sometimes two miles, to their work going and coming, because these railroad companies have not yet realized the fact that these 20,000 people who, with their families, pay over \$1,000,000 into the coffers of the railroad companies every year, must, after their day's work, reach a railroad at the nearest point and pay their 5-cent fare anyway.

That has been the condition here for years, and we understand that neither one of these railroad companies will invest a single cent in the extension of a railroad so long as that condition can be imposed upon those 20,000 people and their families. In other words, they say to a member of my organization, for instance, living in Northeast Washington who is working in the navy-yard, that he must leave his home in the northeast, take the H street line, go northwest to Ninth and New York avenue, get a transfer, go down and around and south and east and go up to the navy-yard, requiring him to take an hour at least to reach there.

Mr. TUCKER. He has to go to Eleventh street, Mr. Spohn.

Mr. SPOHN. Yes; Eleventh street; requiring him to take an hour at least to get to his work. I say it is an outrage; and, mark you, along a portion of that line the man is doubly outraged, adding insult to injury, by being forced to ride upon the Columbia line cars, which have been nothing else in the winter but a combination of a refrigerator and a garbage cart.

Senator MALLORY. Does the Central Labor Union you speak of represent all the labor unions in the city?

Mr. SPOHN. Yes, sir. There are 3,500 machinists working in the navy-yard who are to-day allied with the body of which I am speaking, and those men, in the railroad conditions existing in the District of Columbia, are absolutely excluded from the north and east portions of our city and from the suburbs. They are driven across to Anacostia, if they desire a little home in the country, or must remain confined and penned up in the southeast section of the city contiguous and convenient to the navy-yard.

I am surprised at the Commissioners of the District of Columbia. I have been a resident here for a great many years and I have always had a very high regard for the District Commissioners; but, Mr. Chairman and gentlemen, the District Commissioners are aware of these facts. Complaint after complaint for years has been registered with the District Commissioners against particularly the Washington Railway and Electric Company, and yet the District Commissioners have turned a deaf ear to those complaints and, under their action in this matter, if there is to be a cross-line road extended, those people will be passed over to the tender mercies of the Washington Railway and Electric Company.

If it depended on the Washington Railway and Electric Company to construct a cross line through the northeast, the northeast would never get a cross-line railroad, for they tell the citizens now, when they lodge their complaints, because of the inadequate facilities of their extensions, that they can not afford better facilities because their extensions do not pay. A representative of the railroad company yesterday said that this new company would not pay, that it would go, in all probability, into bankruptcy or would not be extended at all because, in his opinion, a cross-town railroad would not pay, and I presume the officials of the Washington Electric and Railway Company agree with Mr. Dunlop.

No; I do not believe it would pay them. Why? Unless the bill forces and compels a general transfer, it would not pay, and an extension by either of these companies would not pay, for the simple reason that all those in the northeast who desire to-day and who have desired for years past to reach the business center of the city are compelled to walk a mile, two miles or a mile and a half, as the case may be, to reach one or the other of these roads. The company gets its 5-cent fare anyway, and why should the company expend two or three million dollars to accommodate the people when they are now forced to go to the railroads. In other words, the mountain will not come to Mahomet because Mahomet is forced to go to the mountain.

Now, Mr. Chairman, but a few words more. A large percentage of the membership for whom I am talking to-day live on M street or on L street or up in the locality contiguous to L and M streets. We have a great many members who are living around in that locality, but they are not living in the locality from whence these protests come. They are not protesting. Many of them own their little homes along those streets, but they are in another portion of L and M streets, in the portion occupied by people who want street-car facilities, who have to ride on street cars. They can not push the electric button and call John up to the front door and get in a hack when they want to, and not care whether a street car is operated in the District of Columbia; but these are the people who contribute to the wealth of the city, the upbuilding of it, and who add to the profits of the railroad companies of the District. Those people, I think, should be heard and should be given some consideration.

Some of the people living on those streets I know personally. They are sending no protests against the extension of that road down L street and by their houses. I live but a few doors from M street on Eighth. I am not protesting against the road coming down M street. Let it come down M street. I am glad to see it come down M street, and when it does I will have the Ninth street line one square on the west, I will have the Seventh street line one square on the east, and I will have the M street line within less than half a square when I want to go to the northeast conveniently.

Mr. Chairman, I am representing approximately 60,000 of the population of our District when I say, positively and absolutely, that I do not believe there is one of the 60,000 for whom I am speaking to-day who does not desire this railroad and who does not recognize the fact that it is a necessity for the development of our city, for the accommodation of our people, and for the upbuilding of one section, notwithstanding the objection made by a few property holders along the

contemplated line, or by the two railroad companies, who seek a monopoly of the railroad privileges of the District of Columbia.

I thank you.

The CHAIRMAN. Is Mr. E. J. Roache present, representing the local branch of the American Federation of Labor?

Mr. ROACHE. Yes, Mr. Chairman.

The CHAIRMAN. Be as brief as you can.

STATEMENT OF E. J. ROACHE, REPRESENTING THE LOCAL BRANCH OF THE AMERICAN FEDERATION OF LABOR.

Mr. ROACHE. Mr. Chairman and gentlemen, Mr. Spohn and myself represent, as he has stated to you, the working people of Washington.

The ground has been so thoroughly covered by the previous speakers that I will not delay your honorable body. We simply want the building of this railroad for a few reasons. In the first place, we believe, as has been stated, that the railroad is an absolute necessity for the working people and for the people of Washington in general. We believe that the building of a railroad will stimulate trade and prosperity wherever it goes. We believe that the \$5,000,000 which will be expended in the building and equipment of the railroad will naturally revert to the working classes, to the storekeepers, to the landlords, and to the merchants in general in this city.

In conclusion, I will simply say, Mr. Chairman, that there are only two sides to the question as we view it. The representatives of both the existing roads do not want this railroad; the people of Washington do want it.

The CHAIRMAN. Is Mr. Robert A. Phillips, of the Washington, Arlington and Falls Church Railway Company present?

Mr. PHILLIPS. Yes, sir.

STATEMENT OF ROBERT A. PHILLIPS, OF THE WASHINGTON, ARLINGTON AND FALLS CHURCH RAILWAY COMPANY.

The CHAIRMAN. Mr. Phillips, your corporation is a Virginia corporation, I believe?

Mr. PHILLIPS. Yes, sir.

The CHAIRMAN. It runs from Falls Church to the Virginia end of the Aqueduct Bridge?

Mr. PHILLIPS. To the other end of the Aqueduct Bridge; yes, sir.

The CHAIRMAN. That is, you will have facilities over the bridge under the legislation of last year?

Mr. PHILLIPS. Yes, sir.

The CHAIRMAN. Proceed, Mr. Phillips.

Mr. PHILLIPS. I simply want to express a desire to have the provision put in the bill that our road can, by making fair terms with this company, send its cars on down only to the proposed new depot.

The CHAIRMAN. That is, that the Washington, Arlington and Falls Church Railway Company shall have the privilege of negotiating with the Great Falls and Old Dominion Railroad to accomplish that result? Is that it?

Mr. PHILLIPS. Yes, sir. I should like to have that provision put in the bill. Our road runs to Arlington, where the national cemetery

is located and where the Government holds a large tract of land, and to Fort Myer Heights and Fort Myer, where the military instruction school is located.

Thousands of people who come to Washington go over that road to get to Fort Myer and to Arlington, and it is extremely desirable that the Government should have this road continue on down into the city so that people can take a car on the route anywhere and go right to their destination; and if the bill provides a clause that this road may make satisfactory terms with the Old Dominion and Great Falls Railroad, and if they can not, that they shall have access to the courts in case they can not make terms that would be fairly reasonable.

That is all I desire to say in this connection.

Senator MALLORY. I would like to ask one question. Is there any definite determination, up to this time, of the eastern terminus or the northeastern terminus of this road? My reason for asking is this—probably I had better state it: There is great complaint evidently that the northeastern and southeastern part of the city has not enough north and south lines. Now, is it a fact that if this road is built that want will be supplied? That is what I would like to get at.

Mr. PHILLIPS. That would be a matter for the Old Dominion and Great Falls road to determine. I do not know what route they do propose to go beyond the new proposed depot.

Mr. THOMAS W. SMITH. I can answer that question, Senator. If this charter is granted to the Old Dominion and Great Falls Railroad Company, and they will build as they agree to do, a road through from east to west, reaching Tenth street east and from there to the navy-yard, under the present bill, it will not give all the facilities that the eastern section will require. The report of the East Washington Citizens' Association, which will be before you, states that the extension of the road should be made to Florida avenue and that the north and south extension of the road should commence at Florida avenue and extend to the navy-yard.

Senator MALLORY. I notice the Commissioners say they "favor an extension of the Capital Traction line from U street along Florida avenue and H street northeast to a junction with the Pennsylvania avenue line." The Commissioners evidently do not favor this project, and what I want to get at is where are the people in the eastern part of the city going to get much hope from the construction of this road so far as the north and south line is concerned?

Mr. THOMAS W. SMITH. I beg your pardon, Senator. I understand the Commissioners are in favor of a north and south line in connection with its charter and they recommend that it be extended to Florida avenue. I believe you will find that—

Senator MALLORY. I know that, but they say here distinctly:

"The Commissioners believe that a cross-town road would be a desirable improvement. They favor an extension of the Capital Traction line from U street along Florida avenue and Eighth street northeast to a junction with the Pennsylvania Avenue line, and an extension of the H street line of the Washington Railway and Electric Company out Bladensburg road."

Mr. THOMAS W. SMITH. That is, if this corporation is not allowed to do what they want to do in Washington, the Commissioners would favor the extension of the Capitol Traction line from Eighth street and Pennsylvania avenue to Florida avenue and along Florida avenue

to U street. As has already been stated, the Northeast Washington Citizens' Association and the East Washington Citizens' Association favor any route and any road and any corporation that will give us a north and south road east of the Capitol.

Senator MALLORY. I understand that, but what I want to get at is what hope is held out, if we grant a charter to this road, that that is going to be accomplished?

Mr. THOMAS W. SMITH. I have it from their representative here, ex-Senator Butler, that this road will build the north and south route from Florida avenue on Tenth street.

Senator MALLORY. Of course we can put that in and require it.

Mr. W. MOSBY WILLIAMS. That is the reason I wanted to speak on the penalty clause in the bill.

Senator MALLORY. But we have the Commissioners expressing themselves as favoring another plan, and I understand from one gentleman that ten years ago a proposition was made to do that very thing and no attention was paid to it.

Mr. BUTLER. I have already stated, I think, to the committee, that the company is willing to accede to the wishes of the East Washington Citizens' Association as expressed by Mr. Williams and other representatives in that respect.

The CHAIRMAN. Is Mr. George G. Boteler present?

Mr. BOTELER. Yes, sir.

The CHAIRMAN. You may proceed, Mr. Boteler.

STATEMENT OF GEORGE G. BOTELER.

Mr. BOTELER. Mr. Chairman and gentlemen, I come from Virginia. I am here to speak for quite a large number of people who do business in the city of Washington and who have their homes in Virginia. Many of them are taxpayers in this city. These people organized a company in January, 1900, known as the Great Falls and Old Dominion Company. They located their lines and attempted to build the road. They were not able to get the capital to do so until an entrance into Washington was given them, which was done by the last Congress.

The charter was granted to the Great Falls and Old Dominion Company without the help or assistance of any of the existing lines. They purposely avoided making any alliance with any existing line or any officer of any existing line. They simply asked the right to cross the river and enter Washington. There are hundreds of people in Virginia who come here daily to transact their business, I among the rest of them; and I want to say, Mr. Chairman, that of the sixteen gentlemen who organized this company, seven of them were Washington men, one of whom was Mr. Samuel R. Phillips, who is recognized as one of the greatest financiers that ever operated a line in this District. He put the Capital Traction road on its feet. He put the Metropolitan road on its feet. It was largely through him and through his opinions that we were able to organize the company.

Many of the people I speak of in Virginia are officeholders, and they come to this city daily. If they are not allowed to have this road they will be obliged to make two transfers. There is no other way of reaching Ninth street, F street, Fourteenth street, or Eleventh street. It matters not if the Capital Traction Company gives free transfers at this end of the bridge, they will even then have to pay two fares.

I want to say, and I am going to be very brief, that if you allow the situation to continue as it is at this time we will have a congestion at this end of the Aqueduct Bridge that it will be almost impossible to avoid. We have no depot facilities there, and we can not get depot facilities. Mr. Dunlop told you truthfully that it cost half a million dollars for his company to get facilities that do not answer all their purposes at this time, and they can not and they never will allow any company to enter their depot with cars on the street floor. They can not to-day get their own cars with vestibules in and out of that station. If the situation is allowed to remain as it is, we will have to transfer our people in the street.

I want to say, too, that the Great Falls and Old Dominion Company never agreed with any other company that it should not extend its line or ask to have its line extended after the bridge franchise was granted. The only pledge the company made at all was a pledge made by myself to the chairman of this committee and to Senator Martin that if the charter was granted the road would be built.

That is all I have to say.

The CHAIRMAN. Mr. Boteler, as I recall it, the Old Dominion Company paid for repairing the bridge?

Mr. BOTELER. Yes.

The CHAIRMAN. I would like to know, as a matter of history, how much was expended?

Mr. BOTELER. In the first place, Mr. Chairman, the bill which was prepared to enable us to cross the bridge was prepared by the engineer Commissioner of the District of Columbia. His engineers required that the company should deposit \$25,000 as a maximum amount that it would cost to do the work, and that it should be done within a very short time, sixty days, I believe, from the time of the passage of the bill. The committee of the House increased that amount \$10,000, making \$35,000. Upon advertising for bids for this work, the lowest bid the Commissioners got was \$49,000 for the work. They refused to go until the company was willing to put up an amount that was necessary to do the work, which amount was immediately deposited. That was \$46,500.

Mr. DUNLOP. Mr. Chairman, Mr. Boteler has said that no one in the interest of the Great Falls and Old Dominion Railroad ever sought or had any communication with the Capital Traction Company or any other road, I think he said.

Mr. BOTELER. I beg your pardon. I did not say "sought."

Mr. DUNLOP. A gentleman is present here who was then treasurer, I believe, under the old organization of the Great Falls and Old Dominion Railroad, who came with the president of that company and sought me in my office and made the terms by which we would assist them to get a charter over the bridge. I declined to publicly do that, and gave my reasons for it, saying to them that I thought it would do them more harm than good, but that we were very much in favor of their getting over the bridge and making a connection with us; that we had every facility in the depot for accommodating their cars, and would see that they were properly accommodated, and that I would help them in every way that I could to get the bill through.

I simply wanted to make that statement. The gentleman I refer to is here and can speak for himself.

The CHAIRMAN. The Chair would suggest that that seems like an

inconsequential matter. I think Congress will take the responsibility for having granted that privilege, no matter who was against it or in favor of it. No one appeared before the committee protesting against it, as I recall it.

The committee will now hear briefly from the gentlemen who desire to protest against the building of this road on certain streets. Mr. Hackett, you represent some people on M street?

Mr. HACKETT. I do.

The CHAIRMAN. You may proceed.

STATEMENT OF FRANK W. HACKETT.

Mr. HACKETT. Mr. Chairman, and gentlemen of the committee. So far we have heard from gentlemen who have a scheme to carry out. They come here and ask you for a privilege, and they have set out in rather rosy colors the great advantages which will result from acceding to their request. We have also heard from gentlemen in the various sections of the city who would be accommodated by the proposed line, and they have put their case well, and personally, I want to say that I am very much in sympathy with these gentlemen, and wish them well. There is no desire on my part, or on the part of those I represent, to oppose the reasonable desires of our friends over in the northeast. They ought to be heard, and some way ought to be found to give them relief.

I speak to-day, Mr. Chairman, for M street from one end to the other, and mine is the first voice, I think, that has been lifted up against the proposed legislation, which would have the effect of surrendering that street to a railway company.

Mr. Chairman, in the early days in Washington a street railroad, run then by horsepower, developed the city. Nobody was opposed to it. You have heard a man who knows, I suppose, more about railroads than any other living man in this country to-day, tell you that the beginning of that sort of thing means financial ruin, and after awhile a system has been put in operation here to the credit of the city. I was glad to hear Mr. Dunlop describe the struggles they went through, and I can testify cheerfully that what he said in praise of his road, although it was said by him, is deserved. I think the people of Washington as a whole are proud of that company. I am not interested in the company one particle. I am saying that simply as a resident here.

Now, that company is on a basis where, if it promises something, it can do it. We have another company here, ably represented by a receiver, an unfortunate situation, and that gentleman spoke words of wisdom. Those two men are not amateurs who talk about a road paying without knowing what it means. They are men who have devoted their lives, or at least Mr. Dunlop at any rate has devoted his life, to this business, and Mr. McDermott, so far as I can see, shows extraordinary ability in understanding the situation. These two gentlemen tell you there is no need for a new road.

In the early times a road was needed, and the people wanted it, and what was the result? The result was that it converted a street into a business street. The railroads went where the great centers of business were, where the Departments were, where the hotels were. If you follow out the history of any road here you will find the tendency is to bring along shops and stores in the street where the railroad is

laid. But, gentlemen, that was many years ago, and we have a system here now, and we want to look at this thing from a large point of view.

Here is a proposition to break right into the residence portion of the city and blight all that region with a railway. What for? To please some gentlemen who think they can make money by it. They very adroitly have the sympathy of our friends over in the northeast because they make them promises; but the Commissioners of the District, who understand the situation from A to izzard, have sketched out a plan, and I think a sensible plan, which I hope the committee will follow.

Now, gentlemen of the committee, I make this proposition as a lawyer. I think a railroad company asking a privilege of this kind has no right to go through a residence section destroying, to a large proportion, the value of residence property without responding in damages to the owner.

The CHAIRMAN. Mr. Hackett, permit me. Do you mean to say that putting a railroad on M street is an exceptional thing, so far as residences are concerned?

Mr. HACKETT. No; I am opposed to L street, I am opposed to M street; I am opposed to anything in the residence portion of the city, provided the people in the northeast can get across on existing lines and be accommodated.

The CHAIRMAN. I understood you to base your objection on the fact that this is a residence street?

Mr. HACKETT. I do.

The CHAIRMAN. Of course, if that is a valid objection, it would apply to three-fourths of the streets in the city.

Mr. HACKETT. I am glad you have said that. Not at all, Mr. Chairman. I know the chairman personally, and I know he would not say a word in disparagement of those I represent, but in an inadvertent moment you said that we might be willing to have it on some other street. That is not so, Mr. Chairman. We are not willing to have it on some other street. The gentlemen who signed these protests do not want it on L street. They do not want it in the residence portion at all. They believe it would be a wrong upon us. We are people who own houses. We are not rich people through M street. If you will study that street you will find that all the way down it there are people who have worked hard and have their little all invested in their houses.

The CHAIRMAN. On that point—because it is well to be understood as we proceed—you say you do not want it on any other street?

Mr. HACKETT. No, I did not say in any other street; any other residence street.

The CHAIRMAN. There is not a cross-town road from H street to U street. Do you mean to say there might not be a cross-town road somewhere between H street and U street without doing violence to citizens of the District?

Mr. HACKETT. No, I do not say that. I say if in the wisdom of the committee you come to the conclusion that there is a crying demand for a street railroad somewhere between F street and U street, then you will put that road where it will do the least damage, and when you put it there, if you are fair, you will put a clause in the bill sending all those people to a commission, just exactly as you would send to a commission people who are injured by a change of grade of the

street. I say as matter of law, although it is not clearly demonstrated to-day, Congress owning the fee of these streets, they could recover before a court. I say that in fairness you should put a clause in the bill providing that any man who can prove that his property has depreciated because of this railroad shall have the right to claim damages of the railroad company.

The CHAIRMAN. Has that ever been done?

Mr. HACKETT. It is high time to do it. I only wish I had the rest of the time this morning to try to convince you of it; but I can demonstrate it to the satisfaction of anybody on this committee. I believe you are all lawyers.

The CHAIRMAN. Except the chairman.

Mr. HACKETT. I do not know but that you are a good deal more of a lawyer than you think you are. I think I can demonstrate, when you get right down to the last analysis of right and wrong, that a private corporation can not go through a street and demolish a man's property without compensating him for it.

The CHAIRMAN. How would it be if it benefited him?

Mr. HACKETT. Oh, if he is benefited, that is another matter, but he ought to have an opportunity to go before the court.

The CHAIRMAN. Ought he not to pay something in that case? [Laughter].

Mr. HACKETT. Yes, if he makes something out of it.

The CHAIRMAN. Proceed, Mr. Hackett.

Mr. HACKETT. I will read this letter from ex-Senator Jones. I was requested to read it, and I hope, as you gentlemen say on the floor, it will not be taken out of my time:

WASHINGTON, D. C., March 23, 1904.

To the Honorable Commissioners of the District of Columbia.

GENTLEMEN: I am compelled to leave the city to-day and respectfully ask to enter my protest against the establishment of a railroad line along M street. I bought a house on that street some years ago to be occupied by my family as a home. I recognize the fact that the private and personal interests and convenience of parties must often give way to those of the general public—the people at large.

I have never complained when my interest and comforts have been so sacrificed and would not do so now. I object to the building of this railroad line, which is against the wishes of the people residing and owning property on M street and against their interests, because it is not proposed in any sense in the interest of the public. This movement did not originate in any demand from the people. If there is a necessity for a cross-town railroad, there is certainly no demand to have such road located within six blocks of another already existing, an efficient cross-town railroad line, and within eight blocks of two others, as the one on M street would be.

It will doubtless be to the interest of the promoters of this proposed railroad to have it built, it will benefit them financially, it will put money in their purses; hence, of course, they are anxious to have it done. There may be also a few gentlemen interested in real estate operations in other sections who are interested, but these are purely personal and selfish interests, in which the public has no concern.

There is another consideration which I hope your honorable body will not overlook, and in which the public has a decided interest. M street is one of the most attractive driving streets in the city. There are, in my opinion, one hundred times as many people interested in preserving this drive as there are interested in building a railroad line on it.

This private enterprise for personal financial gain at the expense and convenience of the people, and the practical confiscation of the property of those living along M street, it seems to me would not commend itself to the judgment of a fair and impartial people anywhere, and I do not believe for one moment that your honorable body will entertain a proposition so decidedly unjust as this.

Respectfully,

JAMES K. JONES.

Mr. HACKETT. With the kindness of the committee I will read this protest, signed by everybody, I think, in that neighborhood, with regard to some special objections to the railroad at Thomas Circle, at Connecticut avenue, and at Rhode Island avenue; and while the committee, of course, have been most kind in giving attention to everyone, I would ask special attention to these two points.

This protest reads as follows:

To the Senate District of Columbia Committee:

The undersigned property holders and residents upon M street between Fifteenth street and Thomas Circle as well as upon Thomas Circle, do hereby protest against permitting a street-railroad line to be built along through this portion of M street out into Thomas Circle. We are willing to take our chances with other street residents as to the location of a cross-town railroad. We have the same objections as residents have on other streets.

Our chief reason for protesting is that in our opinion such a railroad coming into Thomas Circle would make a "death trap" of that locality. At present it is dangerous to foot passengers, at certain hours of the day, to cross as they do from the Portland to the corner of M street and Massachusetts avenue on the west side of Thomas Circle. M street is a thoroughfare for wagons and other vehicles from Georgetown. Many vehicles are constantly passing on the north and west sides of Thomas Circle, to say nothing of the large number of carriages, bicycles, and automobiles going into Massachusetts avenue. The presence of the Capital Traction cars on either side of Thomas Circle adds to the danger now existing.

In our opinion to permit a line of cars to come in from M street and pass across through Thomas Circle would be to intensify what is already a threatening danger.

The growth of the city is making this open space more and more essential to comfort and safety. It would be a very grave mistake to add to the complications of the situation, and we think that the urgency of a cross-town railroad does not demand that this particular locality should thus be imperiled.

We also call attention to the fact that this is an important part of the "fire run" from New Hampshire avenue and M street east.

Clement Brown, Frank W. Hackett, Robt. J. Fleming, John Taylor Arms, T. L. Macdonald, M. D.; M. Millson Crenshaw, J. C. Burrows, G. Wythe Cook, Chas. Brannan, John McKeon, Chas. D. Fowler, John Van Rensselaer, Alexander Porter Morse, James S. Morrill, Dan'l B. Clarke, Washington Loan and Trust Company, by Jno. Joy Edson, agt., for Eleanor M. Talmage, W. V. Cox, Horace Wylie, Andrew Wylie, Louis J. Davis, 1411 Massachusetts ave.; S. H. Kauffmann, 1421 Massachusetts ave.

This is signed by everybody in that neighborhood, including such men as Judge Wylie, Mr. John Taylor Arms, Colonel Fleming, Mr. Kauffmann, Louis J. Davis, and a large number of other persons.

Added to that is this protest; and a corresponding danger, and I do not know but that it is even a greater one, exists at Connecticut avenue and Rhode Island avenue:

The undersigned, residents and owners and representatives of property fronting on or near the intersection of M street with Connecticut avenue and Rhode Island avenue, hereby express our entire concurrence in the foregoing protest, and respectfully call attention to fact that its argument is equally applicable to the conditions existing in this already overcrowded channel of intercommunication in our immediate neighborhood.

David R. McKee, corner Rhode Island and Connecticut avenues; George Dewey, 1747 Rhode Island avenue; Elizabeth Lanier Dunn, 1745 Rhode Island avenue; W. E. Montgomery, 1743 Rhode Island avenue; James F. Barbour, No. 1741 Rhode Island avenue; J. G. Walker, 1202 Eighteenth street; Potomac Realty Company, by George Howard, treasurer, Lot B, square 160, and 1712 and 1714 Rhode Island avenue; Westcott & Stone, 1746 M street NW., 1704-6-8 M street, 1154 Seventeenth street; Saml. Maddox, house and premises 1720 Rhode Island avenue (being 4 lots); Amanda J. Ray, owner 1200 Eighteenth street NW., corner of M street; Georgianna L. M. Raub, 1817 M street NW., by Alexander Muncaster, attorney.

That is signed by Mr. McKee, Admiral Dewey, Admiral Walker, Father Lee of St. Matthew's Church, and numerous other persons. Colonel Phillips did not sign it because it was not presented to him, but he has written an earnest letter to the committee. He has put a large amount of capital into the building at the corner of Connecticut avenue and M street, and you would suppose he would want another line running there. He does not. He recognizes the danger there would be at that point.

In the few minutes I have left I want to impress upon you the fact that you would do a great outrage—this is not mere rhetoric but is a fact—to the people of this community if you should surrender such a street as M street, from beginning to end, to the uses of the railroad company. Do you know, gentlemen, that there is no street in this city running east and west that has so many carriages on it of an afternoon for a comfortable drive from Washington to Georgetown as that street has, and in the forenoon, in the business part of the day, at least as far as Thomas Circle, it is crowded with wagons and carts and vehicles going along there, and to put a railway along there, whether it is a single track or a double track, I say is an outrage.

I hope the committee were impressed with the forethought of Mr. McDermott. It was something I intended to take up, but it is hardly necessary to do more than refer to it; that is, we are just now in a transition state. I believe the time is coming shortly when no street-car tracks should be allowed at all beyond what we have now. The automobiles will be so perfected that a line can be put on any street, and of course there could be no reasonable objection to it. I want to say before I sit down that my friend from North Carolina who, in such a benevolent way comes up here and speaks about the great cry there is for this road, drew a very pathetic picture of the people on L street. He stated the reason they did not want to go there was because that it was going to bring disaster along in its train, cut down trees, and all that sort of thing.

It may be news to the gentleman to know that there are full-grown trees on M street and nothing but saplings on L street, and it may be news to him to know that there is a water main there all the way down to New Jersey avenue, precisely as there is on L street. So I would commend the gentleman's argument to himself as regards that point. I hope the committee will not permit the railroad to go on either of these streets.

STATEMENT OF JAMES H. HARRIS.

Mr. HARRIS. Within the last twenty-four hours I have measured M street, and there are 11 squares, or one-half of all the territory proposed to be used by this new railroad, in which M street is only 32 feet wide. The ex-Senator who spoke in behalf of the railroad the other day said he would be opposed to putting a railroad on any street that was only 32 feet wide and where the trees would have to be cut down. I say you cannot widen that street two feet on either side without taking every tree down. The trees there are very fine. There are no finer in this city, and the street for 11 squares is only 32 feet wide.

The CHAIRMAN. We will now hear Mr. David R. McKee.

STATEMENT OF DAVID R. MCKEE.

Mr. McKEE. Mr. Chairman and gentlemen of the committee, I appear before you in behalf of myself and wife, and a number of

other residents and property owners at or near the junction of M street, Rhode Island avenue, Connecticut avenue, and Eighteenth street, to protest against the construction of a railway through M street; not upon grounds of merely selfish pecuniary interest, but for reasons of a broad, general, and absolutely public nature.

Among the persons who have signed written protests and otherwise made known their opposition to the location of the proposed railway, a number have been named by Mr. Hackett as signing an addendum to the Thomas Circle petition. There are others that might have been named, my neighbors along the street; my next door neighbor, Admiral Dewey, Mrs. Elizabeth Lanier Dunn, Mr. Montgomery, Mr. James F. Barbour, Father Lee, of St. Matthews Church, General Gillespie, Congressman Parker, Mr. Justice White, Admiral Walker, and others across the street in a direction toward the west. A number of these persons, having read at my instance a copy of a letter which had been written by me and sent to the Commissioners' office two and a half months ago, have requested me to submit it to the committee as descriptive of our common attitude upon the questions involved, and one of them, Admiral Walker, requested me specially to state to the committee that were it not for the pressure of his preparations to leave Washington to-morrow evening for the Isthmus of Panama, he would to-day appear before you in person to corroborate, so he said, with reference to my letter, every line and every word of it.

Similar expressions of concurrence have been made to me by a number of the other gentlemen, distinguished gentlemen I may say, whom I have named, and I venture, therefore, to invite for the statements and argument of this brief letter a degree of attention, of credence, and of consideration, which, of course, I could not hope to obtain if they were submitted solely as my own.

The letter is as follows:

[Copy.]

1753 RHODE ISLAND AVENUE,
Washington, D. C., January 9, 1904.

MY DEAR MR. WEST: Responding to your suggestion when we met the other night in the madding crowd at the White House reception and you invited an expression of my views, in general and in particular, on the M street railway project, I think it best (in lieu of taking up your time by a call in person) to write you this letter, and request you to show it to your colleagues on the Board, if they, also, will do me the honor to deem it worthy of perusal.

Broadly stated, my contention is, that to allow a street railway to be built and cars to be run through M street, as proposed, from Rock Creek to New Jersey avenue, would be gravely detrimental to a greater number of important public interests and pecuniarily injurious to a larger amount of private property than would or could be harmfully affected by the construction and operation of a cross-town railroad on any one of several other streets, or, probably, on any other street, crossing Connecticut avenue north of K street.

Without denying the propriety or justice of the desire of numerous residents of certain sections of the city to be provided with additional street-railway facilities, it must be admitted that their desire should not be gratified at the cost of disregarding sundry considerations of equal or superior public importance, such as—

1. The safety and convenience of ordinary vehicular transit on established and necessary lines of communication between two or more sections, and the protection and security of life and limb for pedestrians.

Referring you to the weightily signed protest of residents of M street near Thomas Circle for an impressive statement of the dangers threatened by this cross-town railway project to that important "open space," I beg leave to say, with earnest emphasis and absolute sincerity of belief, that all the dangers to life and impediments to free transit which are thereby threatened as regards Thomas Circle will be simply multiplied at the focal point of northwestern street travel upon which I am looking out from my corner windows while writing this letter.

At almost all hours, and especially late in the afternoon and in the dangerous dusk of twilight, the confluent channels of intercommunication at this junction of M street and Rhode Island and Connecticut avenues are thronged with vehicles of every description—from fashionable equipages and automobiles to carts, trucks, delivery wagons, cabs, and bicycles—to say nothing of some eighty electric car “rushes” per hour, up or down Connecticut avenue—all affording daily and hourly what would seem to be quite sufficient difficulty and peril for innumerable pedestrians, while crossing M street and the avenues, without inflicting upon this field of danger another double-track railway, at right angles with the present, and a few hundred more electric cars per diem.

II. Protection for the efficiency of the fire-engine service: Unquestionably the existing M street “run” is indispensable for efficient service from the west to nearly all points east of the M street and New Hampshire avenue engine house, as a glance at the map will show, by reason of the radiation of avenues and streets from the M street and Connecticut avenue intersection; and it is needless to dilate upon the consequences likely to ensue from hampering the necessary transit of fire engines with railway cars and tracks, even if car blockades were never known to occur, and if M street were not already overcrowded, at times, with ordinary vehicles passing to and from Georgetown.

III. The last consideration of a public nature (as contradistinguished from questions of harm or benefit to merely private interests) that I shall allude to is one which I feel confident you have by no means overlooked in your thoughts about this matter of street-railway location. It is the propriety and desirability (from both aesthetic and economic points of view) of preserving unmarred, as far as possible, the beauty and attractiveness, as to comfort and enjoyment in their use, of the “open spaces,” which are undoubtedly among the greatest charms of this beautiful city.

One of these is Thomas Circle, and another is the area now before my eyes (including the two triangular reservations between Rhode Island avenue and M street at one extremity, and between Eighteenth street and Connecticut avenue at the other), which would be grievously marred not only for neighboring residents, but also for the public in general, by the proposed railway. And on this point it seems proper to remark, furthermore, that Connecticut avenue is, for the northwestern residence portion of the capital city, a notably favorite promenade, as well as one of the principal avenues that are shown with civic pride to strangers.

I now reply to your oral inquiry as to what other street than M street should, in my opinion, be selected for a cross-town railway route, and *why*, as regards considerations other than these of a public nature, above noted.

My answer, I think, might well be R street (in accordance with the conclusion arrived at, I am told, by the District Commissioners some years ago) or P street, as has been suggested by many others who hold that the chief present and prospective need of such a road is on the part of the northern section of the city. But if the route is not to be located so far to the northward, then I unhesitatingly assert that L street should be selected rather than M street, for the reason that whereas M street is improved for at least nine-tenths of its entire length from Rock Creek to New Jersey avenue by residences of the first or second class, which would be largely depreciated in desirability and value by a railway, L street has comparatively hardly any such houses from one end to the other, so few, indeed, as to be fairly inconsiderable in comparison with the residences of M street; and there is strong reason to believe that the public apartment houses on L street and the owners of the low-grade property throughout nearly all its length would not be injured by a railway, but the contrary, and might therefore welcome one.

L street does not run through any “open spaces” like Thomas Circle or the junction of Connecticut and Rhode Island avenues, etc.; is not “a thoroughfare” between the west and the east; is not a “fire-engine route;” and, by setting back the curb (at the expense of the railroad company) could accommodate two tracks, arithmetically just the same as any other 90-foot street, and vastly better than M street, for the reasons first above stated.

Apologizing for the length of my letter, which, though aiming at close condensation, I have felt impelled to extend far beyond my intention and expectation when I began it.

I remain, yours, sincerely,

DAVID R. MCKEE.

HON. HENRY L. WEST,
District Commissioner.

234
Mr. McKEE. I wish to be understood, Mr. Chairman, distinctly, in conclusion, to say that I am not appearing to advocate the construction of a road on L street. I think it would injure and damage many interests there, and if so I think they are fairly entitled to compensation, as, by the way, in New York the elevated railways have all been held subject to the payment of compensation for damage to property, and millions and millions of dollars have been recovered on judgments and are still being recovered.

Senator GAMBLE. You speak of the danger of crossing Connecticut avenue?

Mr. McKEE. Yes, sir.

Senator GAMBLE. On M street?

Mr. McKEE. Yes, sir.

Senator GAMBLE. Would there be any less danger in the crossing of Connecticut avenue on L street?

Mr. McKEE. Yes, sir.

Senator GAMBLE. In what respect?

Mr. McKEE. I will state it. A crossing at any other point than such a focal point, an intersection, a point from which avenues and streets radiate in various directions, would be a clean and simple crossing. There would simply be one road crossing another. In this case they cross a number of roads at the same time by reason of that focal intersection of various avenues and streets. A glance at the map will make it apparent; and I hope the members of the committee will view the ground before they pass upon the question. I shall ask for no better corroboration of my statements and my argument than to have the committee go and look at the conditions as they exist and as they may be seen by the eye.

The CHAIRMAN. You may be sure, Mr. McKee, that the members of the committee will do that.

Mr. McKEE. Thank you, Mr. Chairman. I had no doubt of it, but I feel that my opportunities for observation have been probably more prolonged and more thorough than those of the members of the committee, and I may be pardoned for calling attention, and with some emphasis, to certain things that have been borne in upon me and my neighbors with very great force; and at the risk of being considered selfish in wishing to guard my own property, I must say that there are many other reasons of equal force applicable to the property and interests, as I believe, of every man, woman, and child in this city.

Senator MALLORY. As a resident of the northwest part of the city, eliminating your interest in M street, do you think another road from Georgetown east and west is desirable?

Mr. McKEE. I am inclined to think that another road, somewhere or other in the northern section, but farther to the north than our part of the city, might be desirable and would be desirable; but I do not think there is any need of additional railway facilities in that central part of the city. At the most it is only a distance of a few blocks to an absolutely parallel road, and every two blocks or thereabouts you come to an intersecting road, by means of which connection can be made to the center of the city. The people who walk along M street, so far as I have observed, are not people who would desire railway transportation except when they want to get to the railroad stations.

STATEMENT OF GEORGE A. KING, CHAIRMAN OF THE BOARD OF TRUSTEES OF ALL SOULS' CHURCH.

The CHAIRMAN. We will now hear Mr. George A. King, representing All Souls' Church.

Mr. KING. Mr. Chairman and gentlemen, I appear before you in behalf of All Souls' Unitarian Church, at the corner of Fourteenth and L streets, whose board of trustees have, by unanimous vote, instructed me as their chairman to appear before this committee and beg the committee as urgently as it is within my power to do not to absolutely destroy the value of their property, as would be done by allowing a railroad to run past it on L street.

I want to say right here, in response to the question that was asked by the Senator from Idaho, when my protest was announced, as to whether the protestors objected merely to a railroad on their own streets, and were not perfectly willing for it to run on the next street and bring people within a square of their places of business, that All Souls' Church asks nothing for itself, asks no protection, no immunity for its own property that it is not perfectly willing and anxious to concede to others. We do not think there is the slightest necessity for a street railroad from east to west through the northern portion of the city, and particularly not on any street in that locality so near to the existing lines. I regret very much that the position taken by the first speaker on behalf of the M street people was not consistently adhered to by the second speaker, whose own remarks I do not understand to have diverged from it, but the letter he read did in a measure suggest that the road be run on L street.

Mr. McKEE. No; I beg your pardon. It was simply that if forced to an alternative of choice between the two streets, my position was that a minimum of damage should be done rather than a maximum. I advocate neither.

Mr. KING. I so understood Mr. McKee, himself, and I regard him as having presented the matter himself far better than was done by the letter which was read.

Consider what is proposed by this railroad company. The only people who are here asking on behalf of any particular section that this railroad be built are the people of northeast Washington, on the one hand, and the people of Virginia on the other. The people of northeast Washington have no such burning desire to go over to the hills of Virginia, and the people of Virginia to come over here into northeast Washington, that a railroad should be built destroying the northwestern section of the city for their special accommodation.

What the northeast people want, as has been said here by gentlemen who have appeared for their associations, is to get to their places of business, to get to the Departments, to get to the railroad stations, but a railroad built through the finest residence part of the northwest section affords them no aid in that direction. Let them have their increased facilities for getting to their work at the Departments, but if they want to go visiting over in Georgetown, or if they want to go up to the Great Falls, a matter of ten or fifteen minutes in going by a little roundabout route, or even in walking, is not going to hurt them. What a man wants to save time on and get rapid transit for is to get to his place of business or to get to the depot, to get to some place where he has business, not merely when he is going out for pleasure.

Our church is peculiar in one respect. It is the only church of its denomination in the city. It has people from all sections of the city attending it, including East Washington and Georgetown, where I reside, and from which I have no difficulty whatever in getting over to the church by the existing lines of cars. Our board is perfectly unanimous on this proposition, and I have not heard from a single member of our congregation that he or she has the slightest inconvenience in getting to church or desires this line in order to get there by way of L street or M street or any other street.

Now to come to the special objection to L street. The objections to M street have been stated, and very forcibly stated, and it seems the Commissioners were so impressed with the force of those objections, they were so overwhelmed with protests in regard to M street, that having to suggest some other street, they cast upon L street, and as it had never been spoken about before, nobody had yet protested in regard to L street; but they themselves say that protests are just as likely to come from L street, and as a matter of fact I see more names given in the paper as protesting on behalf of L street than on behalf of M street. The objections, especially as to crossing Connecticut avenue and Fourteenth street, while perfectly sound, perfectly just, in regard to those streets at M street, apply with greater force to the crossing of those streets at L street.

Look at the situation at the corner of Connecticut avenue and L street. There is that immense new apartment house, Stoneleigh Court, one of the biggest apartment houses in the country, on one side. Above there is Rauscher's dancing academy, where there are a lot of people, and especially children, going most every day. The children have to cross L street if they are going up to their homes in the farther northwest part of the city. There is no point from which you can look around that corner, as you can in several directions at Connecticut avenue and M street, and see a car rushing along, and it would be a very dangerous crossing for those people and particularly for the children attending that dancing academy.

Take the corner of Fourteenth and L streets, where there is the church which I represent on one side and a house on every other corner. You can not look around that corner as you can look around Thomas Circle and see a car coming; and the crossing of the other line—the Fourteenth street line—would make an exceedingly dangerous crossing there.

The street itself is for its entire width only of the least width of M street at any point, 32 feet, and it is a ridiculous proposition in my estimation to attempt to run a double-track railroad on a 32-foot street. It is so absurd that the gentlemen who are here asking for this bill are themselves the strongest objectors to it. The distinguished ex-Senator from North Carolina stated the objection to the use of L street about as forcibly as anybody could, and as a remedy the Commissioners proposed something that is more ridiculous still. They propose to widen the street and tear down people's houses for a railroad that nobody wants along the street.

My church is only one of four churches that are here objecting to this railroad. The Universalist Church on the next corner, at Thirteenth and L streets, is objecting also. A gentleman who occupies in that church a position similar to mine in my church is here, I believe, to speak for his own church. The Mount Vernon Place Methodist

Church, South, at the corner of Mount Vernon place and Ninth street is objecting and I understand the McKendree Methodist Church on Massachusetts avenue, between Ninth and Tenth streets, is also an objector. The side of our church is right along L street and the cars running along there would absolutely drown the voice of any speaker. It would be almost impossible for anybody to be heard there and it would, I am satisfied, destroy very largely the efficiency of our church service. They are now so crowded that we can hardly accommodate the people.

To-morrow morning when the chaplain of the Senate will address our people, it will give us a great deal of difficulty to seat the people that come there; and there never was, I may say, a more hospitable church and congregation than ours. Our people allow themselves to be crowded out every morning, and gladly, to accommodate the people who come in. It will absolutely destroy the prosperity of our church, and I have no doubt of several of the other churches on our street.

In addition to other objections, there is a 36-inch water main under L street, at some points very close to the surface. At some places it is only 5 feet below the surface, and that will have to be taken care of in some way. It is too close to the surface to allow the electric conduits to go right above it. There are plenty of shade trees along L street, and while it is true that on a large portion of that street the people are not as wealthy, have not as fine houses, as they have on M street, yet those people are entitled to just as much consideration, and in one respect we have a stronger claim. That is, that class of people have no place to go in the summer. They live at home in the summer. The street is the children's playground, and we know accidents are very liable to occur in the summer when the children are playing out on the street. There have been a number of fatal ones over in Georgetown, and on these crowded portions of L street where the poor people are, there would be a liability to just such accidents in the summer, when the children are playing out on the streets.

The CHAIRMAN. Mr. King, the chairman appreciates your suggestion, that a railroad would be an inconvenience to your people in the church; but you will recall the fact that there is a church on the corner of F and Fifth streets northwest which has a railroad on two sides of it.

Mr. KING. Yes, the railroad runs right around there; that is true. It runs on two sides of it. I have not heard how great a disturbance that constitutes. I do not remember whether the railroad was there before the church or the church was there before the railroad. The railroad was built, in my recollection, back in the sixties, when I was a boy. I do not remember the time when that church was not there.

The CHAIRMAN. It must be an annoyance; but if the committee should allow itself to be influenced by the suggestion that a railroad must not go past a church at all, we would never have a railroad in any city in the country.

Mr. KING. There are four churches, Mr. Chairman, along the line of this proposed road. Perhaps I am a little extreme on the subject of quiet, but I do not believe in a street railroad being run through any resident portion in a city where a considerable portion of the residents and property owners on the street object to it. We might well learn a lesson from European cities, where they do not give over their streets in the residence section to street railroads as we do here,

and they seem to get along very well with it. Just look at Philadelphia where every street through the residence section, as well as the business section, has a railroad on it. The whole quiet of the city is absolutely destroyed, and I hope we shall never get to that condition in this city.

The CHAIRMAN. This is the first time I ever heard that the quiet of Philadelphia had been disturbed by anything. [Laughter.]

Mr. KING. I know that is a standing joke about Philadelphia, but perhaps everything else is so quiet there that they can get along with a little noise from their street railroads and they do not notice it as much as we would here.

LETTER OF J. M. WOOD, SECRETARY OF THE EAST END SUBURBAN CITIZENS' ASSOCIATION.

The CHAIRMAN. The chair has just been put in possession of a letter from Mr. J. M. Wood, secretary of the East End Suburban Citizens' Association which, as it is brief, will be read and become a part of the record, as follows:

EAST END SUBURBAN CITIZENS' ASSOCIATION,
Washington, D. C., March 26, 1904.

Hon. J. H. GALLINGER,
Chairman Senate Committee on the District of Columbia,
Washington, D. C.

SENATOR: By unanimous vote of our association I was directed to inform you that all our people are in favor of the passage of the Great Falls and Old Dominion Railroad bill, S. 2833.

It is our belief, however, that the route should be along Massachusetts avenue to Stanton square, thence east two squares over existing tracts, and thence out Maryland avenue; returning by the way of Maryland avenue to D street, thence west five squares over existing tracks to Massachusetts avenue.

There would be no objection in East Washington to such a route, whereas, owing to the narrowness of F street, everybody along that street would object. It requires but a glance at the map to see the wisdom of this suggestion.

If the question was put to a popular vote it would be found that practically everybody in the city is in favor of the bill, as it gives us a double cross-town line, one connecting the northeast with the northwest and one connecting the northeast with the southeast.

Then a little admonition to the chairman:

We trust you will not let a few greedy railway magnates, who are afraid they will lose a few fares, stand between you and your duty to the great bulk of the people of this city.

Respectfully submitted.

J. M. Wood, *Secretary.*

It is almost 12 o'clock. The chair will ask the members of the committee if they will sit a little while after 12 o'clock.

Senator MALLORY. How many more are to be heard, Mr. Chairman?

The CHAIRMAN. There are several gentlemen protesting against the L street route who wish to be heard.

Senator DUBOIS. Why not sit, Mr. Chairman, until the District bill comes up in the Senate? I suppose most of us would like to be there when that bill comes up.

The CHAIRMAN. Very well, if that suits my associates.

Does Mr. Williams desire to be heard in respect to the Church of Our Father, the Universalist Church?

Mr. WILLIAMS. Yes, sir.

The CHAIRMAN. Mr. Williams, kindly be as brief as you conveniently can. Our time is limited.

STATEMENT OF H. E. WILLIAMS, CHAIRMAN OF THE BOARD OF TRUSTEES OF THE CHURCH OF OUR FATHER.

Mr. WILLIAMS. Mr. Chairman, I have a very few words to say. I appear on behalf of the congregation of the Church of Our Father, which is situated at the corner of Thirteenth and L streets.

Our opposition, of course, is principally to the passage of the road along the sides of the church on either street, L or Thirteenth. In my letter I mentioned Thirteenth street because the old route of the road, when it was first announced, was up L street and turning down Thirteenth. It would be equally objectionable on either side for us.

I wish to place particular emphasis on the great detriment that the passage of a street railway is to a church, as affecting the church services, particularly where it passes along the side of the auditorium, lengthwise. I think my friend Mr. King might have emphasized that point in his remarks to a great deal more effect—the fact that here is a public assembly met in a building for a special purpose and that purpose is largely destroyed by allowing a street railroad to run alongside. At very frequent intervals the services are entirely disarranged. The noise is so great that the preacher can not be heard, and the singers can not be heard when the choir is singing.

That is mainly our contention, and I beg you to consider it very seriously. The point is made, of course, that there are a great many churches located along the line of street railroads, but as a rule those churches are built on that street after the road is located, and in that case they are able to interpose their vestibule between the auditorium and the road. In this case, in the case of All Souls' Church and the Church of Our Father, the auditorium can not be changed.

In this case it is proposed to run the church right alongside the auditorium, in close juxtaposition to the windows opening right into the auditorium, and, as has been stated, in the summer time we shall have to keep those windows closed and subject ourselves to the extreme heat, or the noise of the road will almost entirely destroy the value of our church services.

I submit this on behalf of the congregation of our church, which represents a large proportion of the people of the city, in those who gather there, and the value of whose services will be largely taken away by allowing this road to run along there.

Senator DUBOIS. In almost all cases, as I recollect it, the roads run in front of the churches?

Mr. WILLIAMS. Yes, sir.

Senator DUBOIS. It is a rare thing for them to run alongside churches?

Mr. WILLIAMS. Yes; the churches have their vestibules between the auditorium and the road; but if this road runs along L street, it will run right along both the auditorium of All Souls' Church and of the Church of Our Father.

I may say, with reference to the Methodist Church at Fifth and F streets, that I have heard frequent complaints from the members of the congregation as to the extreme annoyance they are subjected to by the street railroads, and particularly the electric railroad, which is much more noisy than the old horse cars were, when they were used.

I beg the serious consideration of the committee to that part of the case.

240
Senator DUBOIS. Of course the people on L street and the people on M street are protesting against a road on those streets. Do you protest against an east and west road generally? I would like to know if your objection is confined to L street, or do you object to an east and west road as contemplated?

Mr. WILLIAMS. No, sir; I have no power to say that our congregation objects to an east and west road. We are simply protesting against the passage of the road by our church as affecting our congregation.

The CHAIRMAN. Mr. Johnson and Mr. Babbitt have registered their names. I do not know exactly to what their objection goes.

Mr. JOHNSON. We are protesting against the use of L street.

STATEMENT OF CHARLES H. BABBITT.

Mr. BABBITT. Mr. Chairman, I put my name down as protesting against the cross-town road in the northwest part of the city, and I see by the paper that I was put down as protesting against L street solely. That is a mistake.

STATEMENT OF PAUL E. JOHNSON.

The CHAIRMAN. Mr. Johnson, you will be heard briefly.

Mr. JOHNSON. Mr. Chairman and gentlemen of the committee, before speaking of L street I think it well to correct a misapprehension that Senator Mallory and some of you other gentlemen may have from an answer made by Mr. Smith. I am sure it was inadvertently made, and that he understands it as he stated it.

The Commissioners in their report in two places do say that all they approve of at this time is an extension of the U street branch of the Capitol Traction road down U street to Florida avenue. Mr. Smith, in answer to Senator Mallory's question, said that they suggested that in conjunction with the rest of the bill. I not only have what the report says, but I had an interview with Mr. Macfarland the day after this bill was sent to Congress.

The CHAIRMAN. Are you a lawyer, Mr. Johnson?

Mr. JOHNSON. Yes, sir.

The CHAIRMAN. Have you analyzed, so that you understand, that report of the Commissioners.

Mr. JOHNSON. No, sir, I do not; and, Mr. Chairman, I do not expect you gentlemen to understand it. I was going to come to that after a while. But Mr. Macfarland told me what he did mean. I suppose he knows what he meant. I do not know what he meant by this; but he told me he meant to say that all the Commissioners were in favor of at this time was a cross-town road on U street—an extension of the U-street system to Florida avenue. I said to Mr. Macfarland, "You do not very clearly state that." I had the temerity to say it, and he did not say very much about it.

As far as L street goes, I think I need say very little about L street after what Mr. Boteler has said, who undoubtedly represents the railroad. The railroad does not want L street. L street does not want the railroad. None of the associations want L street, as they have not mentioned it. Mr. Hackett was magnanimous enough to say for the M street people that they do not want L street. Nobody wants L street. It is not a practicable route, and I am sure that Congress and you gentlemen will not force the railroad on L street or L street on the railroad.

I can not see why the Commissioners ever mentioned L street, what they were getting around, or who they were getting around. They state in their report that L street can only be used from Twenty-second street, at the farther point west, to Eleventh street, and there the cars will have to run into that beautiful thoroughfare, that beautiful avenue, which everyone in the city is interested in.

I have no property there, but as a citizen I am interested in the beauty of Massachusetts avenue east of the Carnegie Library. They have to run into that street at Eleventh street, which was protested against. Gentlemen have come to me and volunteered to sign my protest, which was an L street protest, so anxious were they to get before Congress as protesting against the use of Massachusetts avenue. They have to make several ugly turns.

They go into Massachusetts avenue, they go to Ninth street, they interfere with the church at the corner of K and Massachusetts avenue, they go to the north of the Library, making another ugly hump across the Seventh-street track, and into K street.

Mr. Macfarland, in his interview with me the other day, said: "Mr. Johnson, we are really nothing but an advisory board to Congress." I did not say so, but I thought to myself then, that if I depended on them for advice I would be in a very poor way. Instead of making the labors of you gentlemen easier they have complicated matters. They have written a long report here that means absolutely nothing, and they have seen fit to thrust in L street.

L street for its entire length is but 32 feet wide. In their reports the Commissioners suggest that to put a railroad down L street the roadway must be widened to 45 feet. That would mean 13 feet would have to come off our sidewalks and our parkings, and in a great many instances there the fences would have to be moved, the parking would have to be taken away, and even entrances to buildings would have to be changed—turned around.

Then underneath this street, which is the only argument that it should be necessary to advance, is one of the oldest and largest water mains in the city. I have been furnished by Captain Miller, in charge of the Washington Aqueduct, with a plan in profile of that water main, which lies north of the south curb. It is 36 inches in diameter, and I have heard it stated by some one that it is only 4 feet below the surface, but, as Colonel Miller says, it is 5 and 6 feet below the surface in places. That is all I will say.

In the construction of these railroads, about which I do not know very much, I understand that cement, concrete, and stone have to be used in the foundation, if they make a solid foundation, which, of course, they would have to have with these two tracks, and for the trains they intend to run over them they would have to have a very solid foundation, and the foundation for this road would be practically a part of that 36-inch main.

I asked Colonel Miller if there was any danger attached to the main in laying these tracks, and he admitted that possibly there was. He would not say there was, but he said it was within the range of possibilities. I was informed by a gentleman who I think is the computing engineer in the Commissioners' office, that these mains are so old that there is great danger in lowering one of the mains for the Union Station. He said they were in fear and trepidation that the thing would drop to pieces, it was so old. So this main would have

to be lowered at an enormous expenditure to the road, and in lowering it there would be great danger of damaging it.

The only thing Mr. Hackett said with which I take issue is that there are nothing but saplings along L street. If the growth and beauty of the trees is to be considered, the trees along L street are quite as large and quite as handsome as any trees along M street.

Mr. HACKETT. Excuse me a moment. I was probably referring to trees east of Fourteenth street.

Mr. JOHNSON. Oh, east of Fourteenth street?

Mr. HACKETT. Yes.

Mr. JOHNSON. The Commissioners, to show their bias in the matter, speak of M street as having handsome and beautiful houses all the way from New Jersey avenue to Connecticut avenue. When they come to comparing it with L street, they say that we have some rather good houses from Eleventh to Sixteenth streets. They do not even go up as far as Connecticut avenue, where Mr. Hay's apartment house, Stoneleigh Court, is.

The amount of money expended in that improvement, I will say without fear of contradiction, is greater than has been spent on any of the neighboring streets in years. When you take that in conjunction with all the other handsome improvements that have been built there in the last few years, the three apartments at the corner of Fifteenth and L streets, which are all used for residences, the Lenox, between Fifteenth and Sixteenth, and the Dewey Hotel, I think I can say advisedly that they represent an expenditure of over \$1,000,000.

The L street people do not favor M street. They favor no street, and I will anticipate the Senator in his question about east and west lines. I know very little about the need for an east and west line, but if there is need for an east and west line it should be far north of either L or M street.

Mr. McKee gets behind a letter to make one statement. He does not say it openly, but he reads the letter which does say that L street should be the street, if it is narrowed down to either L or M street. In that connection, I know the committee will take into consideration all the objections that I have made, and particularly the objection in regard to the 36-inch water main, upon which we rely; and I will make a remark that I would not have expressed if Mr. McKee had not made the remark about L street.

They come here with a long protest against M street. They flaunt a great many big names in our faces. I will state that a great many of those gentlemen, and in fact Mr. McKee himself, do not live on M street.

Mr. McKEE. Mr. Chairman, may I say one word.

The CHAIRMAN. The committee desires to avoid any controversy.

Mr. McKEE. But simply as a correction.

The CHAIRMAN. Certainly.

Mr. McKEE. It is quite true that I and a number of other gentlemen whose names, I beg to say, were not flaunted but stated for a proper purpose by me, live on what is practically M street, there being an open space at the intersection or confluence of M street and Rhode Island avenue for about 300 feet. It is practically the same street, looking across a little triangle. The intimation is entirely unworthy of the gentleman, and absolutely unfounded in fact.

The CHAIRMAN. Is Mr. Millan here, representing the Mount Vernon Place Methodist Episcopal Church?

Mr. MILLAN. Yes, sir.

The CHAIRMAN. You may proceed, Mr. Millan.

STATEMENT OF W. W. MILLAN, REPRESENTING THE TRUSTEES OF MOUNT VERNON PLACE METHODIST EPISCOPAL CHURCH.

Mr. MILLAN. Mr. Chairman, I want to answer a question of the chairman, put to Mr. Johnson, before I proceed with my brief argument. I have analyzed this report of the Commissioners, and I do not want to attack them here. They have my official respect, and one member of the board at least, the president, has my very warm personal esteem as a personal friend; but I have analyzed this report by sitting up nights with it, and have reached a conclusion satisfactory to my own mind as to what the report means. It means what the amateur sportsman did, who went abroad and did not know how to use a gun. He aimed at nothing and hit it with magnificent precision. [Laughter.]

Now, Mr. Chairman, I appear here on behalf of the trustees of the Mt. Vernon Place Methodist Church property at the corner of Mt. Vernon square, opposite the library, and I am glad to be in a position to be selfish without hurting anybody. I have very decided views as to the necessity or propriety of a cross-town line, particularly as to this eastern end. I lived in that section for five years, and experienced all the details of that situation; but it is not necessary that I should take up your time now with going into that or expressing any opinion about it, unless the committee desires to have me do so.

I have views about how the situation in the northwest should be; but there are three points to the particular argument that I want to address myself to now, and some of those are arguments that fit the general condition, but particularly fit our condition and make it necessary only that I should bring in the general condition as a background to the particular condition.

In the first place, I say there is no necessity for a cross-town line on L street. If there is to be a cross-town line, and I am willing to leave that proposition to others, it is absurd to put it on L street, and I adopt the arguments of Senator Butler, and will put in some more of my own if I have the time when I get back to it.

In the second place, if a cross-town line is put on L street, let it stay on L street. It would be absurd to deflect it at Eleventh and Massachusetts avenue on account of the hump, as Senator Butler terms it, and I understand he does not himself contemplate for a moment, his whole discussion being predicated upon it, that they shall make that hump, but the Commissioners propose to deflect that road into Massachusetts avenue.

If the road goes on L street, keep it on L street. It would be absurd to take it into Massachusetts avenue at Eleventh street and mar that magnificent street of residences from there down to Ninth street, for the reason that there is no engineering reason you can not make that hump. I have given some little attention to engineering before I began to engineer unfortunate clients through the mazes of the law, and I walked over that situation, and without marring the western triangle at all, which seems to have been in the minds of the

Commissioners, and touching only a very small portion of the eastern triangle, the road can continue its course in L street.

But the third proposition is that even if you put a road on L street, and if you deflect the road into Massachusetts avenue, coming down to our own particular case, when you get to Ninth street there is no reason or necessity or propriety in carrying it around north of the library. If it must come there, I say there is no good business or engineering reason why it can not be carried on a double curve down Ninth street and over the existing track to the south of the library, and then by a curve no more difficult than the one the Commissioners propose, to the north into K street on the east, without damaging the property to the north there at all.

There is the library, which has been put there at great expense, and which is an ornament to the city. The northern approaches to that library touch the southern sidewalk at the present time. I walked over it last night and looked at it. The footway of the southern sidewalk is 5 feet wide from the northern approach of the library to the south curb of that little space in there, and the space is 30 feet from curb to curb.

The parking on the north side is narrow, so that we are not here protesting against the matter of noise in our church service. Our pastor is the Rev. Mr. Prettyman, formerly our chaplain here, and he can make himself heard with the road we have there now, and I have been able to make myself heard on such occasions as I have had to come before the church in regard to secular matters, as I sometimes do.

But we say, recognizing the fact that all property must necessarily be damaged wherever a road goes—property of this character, I mean—that it is not damage we complain of, but if you put a railroad across there under existing conditions it destroys our property; and I appeal to the members of the Senate, some of them members of our congregation, that I would like to have you refer to—Senator Latimer, Senator Overman, and to many members of the other body, the House—if you put a road across there you destroy our church property. You can not widen to the south unless you tear down the Library.

If you widen to the north, you could not drive a carriage to the front door of our church, with the railroad crossing that way. I wish to say, without any invidious comparisons, our church property is one of the most valuable church properties in the city. It is a property on which we are contemplating even now erecting a church, national in character, so to speak, a building to cost about \$150,000, which will be an ornament to that whole section; but it is a property which is already valuable. You destroy it.

We might close our doors, and we represent there 850 communicants on our church rolls, scattered all over the city, and a Sunday school of 800. It would be a death trap. The noise is not the only objection, but it would be dangerous to go up there, and there is no necessity for it.

Coming back again, to summarize, the road on M street, if there is any demand for a cross-town line, is already too far south. The great bulk of the population that wants a cross-town road, if anybody wants it—and I have not heard of anybody here from the northwest section who wants it—lives north of L street and west of Ninth street.

So the road on L street is already too far south, but if you put it there—and I will let the L street people fight their own fight, and I

do not want to say to the M-street people that they must take something they do not want—when you get to Ninth street, carry it down there, but do not gridiron the space around the public library by bringing these necessarily heavy suburban cars across there within a few feet of the reading room of the library, when there is room on three sides and you can carry this track over without injury to the people upon the north.

The CHAIRMAN. Mr. D. M. McPherson has asked to be given a few minutes. You may proceed, Mr. McPherson.

STATEMENT OF DONALD M'PHERSON.

Mr. McPHERSON. Mr. Chairman, I handed my name in without contemplating the making of any remarks, but I have some reasons that I wish to state why the proposed line on M street should be approved.

I dislike very much to object to what our good friend Mr. Dunlop favors. Generally I desire to accord with his views as much as possible, but I am in favor of the M-street line upon general principles. I stated in the Washington Post a few weeks ago (February 29th) my views in a general way why the M-street line should be chosen, which was because it would lead directly to great objective points—the union station, the State of Virginia, and the Great Falls.

I presume that part of the Old Dominion line that is in Virginia is all right and is where it should be. I presume the functions to be performed by it are desirable and of much importance not only to the people of Virginia but to the citizens of Washington, and the M street line is as direct as it possibly can be from Georgetown to the main objective point, that of the proposed union station.

Some of the reasons that I stated then I will state now. These various specific objections may be tolerable, but they are not really valuable or valid. The objection made by A, B, and C, that the railroad will go past his or her residence, or pass by a church, are only partly material but largely immaterial, as affecting the duty of a legislator in laying out such a function as a street-car line for this city.

I maintain as a general proposition that street-car lines should be ideal in character; that is, they should not be located in accordance with the wishes of specific individuals and various requests or objections. As a city is an organism its functions should be performed in some sort as much as possible upon an ideal line, having in view directness, and functions, present and future.

This is perfectly apparent to you all as a general proposition, and that proposition is all I propose to consider, that commercialism is a ruling factor, and ought to be in this or any other city; and the rule to be followed, it seems to me, should be to perform those functions or exercise them in such a way as that they will be as nearly ideal as possible. Commercialism is gradually extending from the now present commercial centers, Pennsylvania avenue, F and G streets, and other streets, to the northward. This will be an ideal and a trunk line.

That is an important factor to be considered. The churches must move. They have moved, and they should move. It is almost immaterial whether it affects them injuriously or not as churches. I venture to say the churches, whose cases have been mentioned here to-day, will, as a commercial proposition, very shortly sell for one-third to two-thirds more than they would at the present time for commercial purposes as a result of the extension of this line. They can not be maintained forever for the purposes for which they are now used.

That is about all I desire to say at this time in this respect. I also desire to give expression of my views with respect to the matter of competition that has been mentioned here. I think the proposed increase in competition is a desirable factor. Without going into the details of saying why, it is undoubtedly true that the goodness and the quality of the service and structure of the Capital Traction Company and lines has been due to competition and the coercive influence of surrounding environments. The expectation of other roads or the fear of adverse legislation has been a factor, and very naturally so.

This statement is not intended to impugn Mr. Dunlop's views or judgment nor the sincerity of what he said with regard to it. I do not apprehend that a competing line will impair the value of that or either franchise. I am under the impression that increased railroad facilities should come with increased population, and also a natural and necessary desire for increased railroad riding. Railroads must be nearer the centers than they have been. They can not be maintained eternally in the same place and same lines. Their business and number must be extended over many streets northward of existing east and west lines.

THE CHAIRMAN. The committee will have to adjourn at this point. I understand the District bill is up in the Senate.

Before separating I will say that Mr. Charles H. Babbitt, Mr. Maurice Otterback, who will speak for the residents of Tenth street east, and General Harries, representing the Washington Railway and Electric Company, are yet to be heard, and I presume it would not be out of place, if it should be desired, that the gentlemen representing the proposed new railroad, or some one representing that road, should be briefly heard in answer.

MR. OTTERBACK. Mr. Chairman, I desire to say that I would not take more than five or six minutes of your time. I am employed, and would like to get back to my place of business.

THE CHAIRMAN. We have not five or six minutes to spare now.

If it is agreeable to the committee, the hearing will be adjourned until Monday morning next, at 10 o'clock, and it will be closed, I trust, before the hour of 12 o'clock.

The committee (at 12 o'clock and 35 minutes p. m.) adjourned until Monday, March 28, 1904, at 10 o'clock a. m.

WASHINGTON, D. C., *March 28, 1904.*

The committee met at 10 o'clock a. m.

Present: Senators Gallinger (chairman), Stewart, Foster of Washington, Gamble, Martin, Mallory, Simmons, and Dubois; also Marion Butler, representing the Great Falls and Old Dominion Railroad Company; George H. Harries, vice-president of the Washington Street Railway and Electric Company; George T. Dunlop, president of the Capital Traction Company; R. H. Goldsborough, Mrs. Elizabeth J. Somers, Mrs. Adelia Gates Hensley, Frank W. Hackett, Maurice Otterback, William G. Henderson, president of the North Capitol and Eckington Citizens' Association; James F. Scaggs, president South Washington Citizens' Association, and others.

THE CHAIRMAN. At the hearing on Saturday the Chair took the liberty of presenting certain protests and letters which had been received against the building of this road, especially on M street. Since that time certain matters have come to the committee, of which it seems proper mention should likewise be made in the record.

Here is a letter from Henry J. S. Gilroy, in favor of the road, which contains some expressions it would not be best to put in print.

Also a letter from Joseph M. Saunders, explaining his former statement regarding Tenth street east, in which he was made to say, as he did say in a letter to the chairman, that this street was only 80 feet wide—one of the narrowest streets in the city. He explains that while the street is 80 feet wide “the roadway or distance between the curbs is 32 feet, thus leaving a balance of 48 feet, 24 feet of which is used for sidewalk and parking on each side of the street.” He then asserts that certain other streets are better adapted for a road in the northeast than that street.

A letter from William W. Conner, 223 Tenth street northeast, who makes an argument against building the road, saying it is not necessary, that the people in that section have been in the habit of walking, and they enjoy it.

Also a letter from Mr. J. F. L. Drain, who urges favorable action on the bill.

Senator DUBOIS. I presume those who are in favor of the road do not designate any particular route?

The CHAIRMAN. They do not as a rule.

Senator DUBOIS. They just generally favor it.

The CHAIRMAN. Here is a letter from V. McNally, lieutenant-colonel, U. S. Army, who says he owns real estate on M street between Thomas Circle and Twenty-sixth street, and is perfectly willing to have the tracks laid in front of his property.

A petition or letter from Frank M. Cleaver and five other persons who say they are property owners on M street, and they desire to express their appreciation of the project and signify their desire to have the road built, being willing that it shall be built on M street.

Senator GAMBLE. Are they residents?

The CHAIRMAN. They are residents of M street.

A letter from R. C. Glascock in favor of the road.

A letter from Mr. Donald McPherson in favor of the road.

A letter from Mr. Robert H. Love in favor of the road, and a petition signed by 239 people, who say they are “residents or property holders, living on the proposed cross-town railroad running east and west from Aqueduct Bridge, in Georgetown, to northeast Washington,” and they desire the road to be built. They comprise 239 petitioners.

Also a letter signed by Alexander Graham Bell, president; O. P. Austin, secretary; John Joy Edson, treasurer; W. J. McGee, vice-president, and the board of managers of the National Geographic Society—Henry Gannett, Henry F. Blount, A. J. Henry, Willis L. Moore, Daniel C. Gilman, G. K. Gilbert, Frederick V. Coville, C. Hart Merriam, A. W. Greeley, David T. Day—in which they say:

“We, the undersigned officers of the National Geographic Society, an organization of 2,600 members, of whom 1,000 are resident in Washington, respectfully urge that the petition of the Old Dominion and Great Falls Railroad Company to lay tracks on M street from the Aqueduct Bridge to New Jersey avenue be granted. The home of the National Geographic Society, Hubbard Memorial Hall, is on the southwest corner of Sixteenth and M streets, and the convenience of

the many members of the society would be greatly served by the propose extension."

Mr. HACKETT. Is there not a letter there from General Greeley and from Mr. Alexander Graham Bell saying there is some misunderstanding about the meaning of that?

The CHAIRMAN. I have not seen it.

Mr. HACKETT. It is not with the committee?

The CHAIRMAN. No, sir; it has never reached the committee.

Mr. HACKETT. I understand there is something with the Commissioners.

The CHAIRMAN. The committee has also received a letter from J. W. Morris, a resident of M street, protesting against the construction of a street railway on that street.

There is also a letter from Mr. William H. Ramsey, 621 F street NE., protesting against the granting of that portion of the franchise requested by the Great Falls and Old Dominion Company which will extend east from the Union Station.

Senator DUBOIS. I notice that the signers of this petition, aggregating two hundred and some odd persons, say they reside on M street:

"We, the undersigned residents or property holders, living on the proposed cross-town railroad running east and west from Aqueduct Bridge in Georgetown to northeast Washington, respectfully petition your honorable board to make a favorable report upon the bill of the Great Falls and Old Dominion Railroad Company, which will give street-car service to important sections of the city now greatly in need of it."

The CHAIRMAN. The chair had not observed that. The petition will be at the service of the committee for further examination later on.

Senator GAMBLE. I notice it reads:

We, the undersigned residents or property holders—

Giving their signatures and their addresses—

living on the proposed cross-town railroad.

Senator MARTIN. Should not all of these letters be printed in the record? I think it would be well to have them printed unless they are too voluminous. I do not know how much bulk they make.

The CHAIRMAN. It was not the intention of the chairman to have the names printed.

Senator MARTIN. I think the names are very important. They would have a good deal of weight with me.

Mr. HACKETT. Have all the letters protesting against the road been printed? Colonel Phillips and E. Francis Riggs and other gentlemen too numerous to mention have written such letters.

Senator MARTIN. All the letters that have been referred to by the chairman ought to be printed if they are not too voluminous.

The CHAIRMAN. Certainly; if we print letters on one side we will print those on the other side, but it occurs to the chairman that mention of the letters in the record of the hearing will be sufficient.

Senator MARTIN. I think all should be printed.

The CHAIRMAN. Mrs. Somers, who is present, has a flourishing school on some part of M street, and she would like to say a word at the present time. The committee will be pleased to hear Mrs. Somers.

STATEMENT OF MRS. ELIZABETH J. SOMERS.

The CHAIRMAN. Mrs. Somers, you are at the head of a school, I understand?

Mrs. SOMERS. Yes, sir; Mount Vernon Seminary.

The CHAIRMAN. Located at what point?

Mrs. SOMERS. At the corner of Eleventh and M streets.

The CHAIRMAN. Now, madam, proceed.

Mrs. SOMERS. The chairman said that Mrs. Somers wished to say a word. Mrs. Somers does not wish to say a word. She has no choice. The gentleman who was to have represented our school here, as I believe he finds larger interests in opposing the placing of the road on L street, has deserted, and therefore we are compelled to come in person and protest against the passing of this line along M street between Twelfth and Ninth.

Our school is located on the corner of Eleventh and M. We own both of the western corners. We have a frontage of 100 feet on the south side of M street and of a hundred and ten feet on the north side of the street. We have a school which numbers in the neighborhood of a hundred and seventy. Nearly 100 are boarding pupils, coming from every part of the country. Our school has been in existence for nearly thirty years. Year after next we shall celebrate its thirtieth anniversary.

The passing of this line by our premises would render our place utterly unfit for school purposes. As it is now the line passing along Eleventh street renders our schoolhouse almost unavailable for purposes of recitation. During all the warm weather we are compelled to keep the front windows closed because recitations can not be heard.

M street, is, as you gentlemen all know, a very narrow street. If the line were located there, it would render it impossible for carriages to come to take our pupils to and from the school and to and from the railroad offices, and it would prevent the easy handling of baggage, and all those things. Besides, it would make the corner very public. It would, of course, be a transfer station, and it would destroy all the privacy so essential to the comfort and well-being of any school.

We feel that our school is too old, that it is too well known, that it has served well too many fine people for us to be willing to have the present site made impossible to us. This plea, in the face of larger interests which I am sure will be represented here this morning, may seem a very narrow and personal one, but I speak not merely for myself and my associate, Mrs. Hensley, and for the present interests of the school; I speak for the large band of over 2,000 young women who have been educated with us and to whom the school with its associations is the nearest and dearest tie outside of their own homes. To render our property unfit for use is, I fear, to sound the death knell of the school. If I were fifteen years younger I might have the courage to move some place else and begin anew. I do not think I am quite equal to that now, and I make this plea most earnestly that our school may not be destroyed. If I have forgotten anything I ought to say, I wish Mrs. Hensley would say it.

Mrs. HENSLEY. I think Mrs. Somers has covered the ground of all we wish to present.

The CHAIRMAN. We have been pleased to hear you.

(259)

Gentlemen, for reasons that need not be explained, it is quite important that this hearing shall close to-day. There are quite a number of persons to be heard briefly. General Harries requests that he be given forty-five or fifty minutes. Mr. Dunlop desires more time. I will ask the representatives of the Great Falls and Old Dominion Railroad Company how much time they desire to occupy. Senator Butler, how much time will you want?

Mr. GOLDSBOROUGH. Mr. Ridout will address the committee. Mr. Ridout, how much time will you want?

Mr. RIDOUT. I think thirty minutes will be all I need. But I will endeavor to condense what I have to say into even a smaller space of time than that.

Mr. GOLDSBOROUGH. I should like to have a few minutes before the meeting is over, thirty minutes at the outside.

The CHAIRMAN. It is understood, then, that General Harries shall have forty-five minutes, Mr. Ridout thirty minutes, and Mr. Dunlop and Mr. Goldsborough a reasonable time.

The other gentlemen will kindly abbreviate their remarks as much as possible in order that we may get through to-day.

STATEMENT OF MAURICE OTTERBACK.

The CHAIRMAN. Mr. Otterback, proceed.

Mr. OTTERBACK. Mr. Chairman and gentlemen, I am present representing the people of Tenth street east, who brought here a petition with about 190 signers, protesting against the branch part of the road beginning at F street and Tenth street SE. I refer to that portion of the bill on page 2 as is embraced in lines 11 to 16:

Also beginning at the intersection of north F street and east Tenth street; thence south along Tenth street to south M street; thence west on M street to east Ninth street; thence north on east Ninth street to Georgia avenue; and thence northeasterly on Georgia avenue to east Tenth street.

The CHAIRMAN. Is that the original bill or the substitute bill?

Mr. OTTERBACK. The original bill. There is no change in the substitute bill, I think.

Now, this is a branch line coming from the main stem. The people in East Washington, especially on Tenth street, would like to call your attention to the fact that Tenth street is the narrowest broad street in East Washington, being 80 feet wide from building line to building line, while but 32 feet wide from curb to curb. I desire to call your attention to the report of the Commissioners, on page 2. They say:

From Fourteenth street to New Jersey avenue the width between curbs is but 32 feet. This is considered too narrow, as the width from outside to outside of cars on a double track is 19 feet, which would leave but 6 or 7 feet on each side when cars are passing.

They also call attention to the condition of affairs existing in Anacostia.

On Monroe street, Anacostia, where there are double tracks, the width is but 32 feet, but such arrangement is very unsatisfactory. In new constructions where the street is 32 feet wide it should be increased to 45 feet in important localities.

We consider that Tenth street is just as important a locality as any other in the city, and if the Commissioners consider these other streets too narrow for a railroad, I do not see why they should suggest a line coming down Tenth street.

They say further in their report, on page 3:

There has been practically no protest from the section. The demand is mostly for a north and south line connecting with the navy-yard, and it is generally desired that the railroad should go as far north as Florida avenue and not end, as proposed in this bill, at F street.

So if we want a railroad running north and south, we want one that will accommodate the people living in the north and south sections of East Washington.

On Tenth street SE., from Pennsylvania avenue to I street—

The CHAIRMAN. For the purpose of saving time the Chair will take the liberty of announcing that after this hearing closes a subcommittee will be appointed to take this whole matter into consideration, and the gentlemen whom you represent will have an opportunity to interview the subcommittee if they think they need any further information. I make the suggestion, thinking possibly it may lead to your omitting some matters which you might otherwise submit.

Mr. OTTERBACK. All right; I will do so. I should like to say further that Tenth street is an unimproved street from D to E northeast, from B to D street southeast, and from I southeast to M southeast.

Senator Butler said in his remarks the other day that a street railway enhanced the value of property. I should like to call your attention especially to the eastern section of the city, where I have resided for forty-two years. From Eleventh street east along M street to Seventh street there is a railroad track, and not a car has run on it for two years or more. On G street, running from Eleventh street east out to the Congressional Cemetery, there is a car track, and not a car has run on it for two years or more.

Again they say street railways improve property. A street railroad down Tenth street would not improve our property, because the street is too narrow and we have not much parking, and we do not care to have the cars run on our front steps.

Now, at the end of Tenth street and I and at the intersection of Georgia avenue, Tenth street, L street, and Virginia avenue there is a large playground for the children of East Washington. This railroad would go through that playground on Tenth street; it would cross that playground on Georgia avenue, thus cutting it all up. I do not see any use of Congress appropriating money for making playgrounds and then giving railroads franchises to cut through them. If the road should go around the park, then the children going to that park to play would have to cross the railroad tracks, and that would be very undesirable.

There are many things I could say further in objecting to the bill, but as there is to be a hearing before the subcommittee I will not further take the time of the committee.

STATEMENT OF WILLIAM G. HENDERSON.

The CHAIRMAN. Is Mr. Henderson present?

Mr. HENDERSON. Yes, sir.

The CHAIRMAN. Mr. Henderson, we will be pleased to hear from you.

Mr. HENDERSON. I am president of the North Capital and Eckington Citizens Association, having over 225 members.

The CHAIRMAN. Do you appear as the representative of your association or only in your individual capacity?

Mr. HENDERSON. I appear in behalf of that association, Mr. Chairman.

I wish to state that I am here to advocate a cross-town railroad. I am, however, in opposition to the route proposed by the bill pending before this honorable committee. There can not be the slightest doubt that there is a great need for a cross-town east and west line. If you take the territory lying east of Seventh street you will find that there is no means of reaching the western section from any part east of Seventh street unless you travel south, west, and then again north, traversing therefore the three sides of an oblong to reach either one of these points.

I wish to call the attention of the committee to the fact, also, that taking North Capitol as the division between the east and the west, you will find that to the west of North Capitol, beginning with that street, there are eight street car lines running north and south. If you look to the east of that street, you will see that there is not a single north and south street car line.

Now, the people living in the eastern section, to the east of North Capitol, need a line in order that they may pass from the neighborhood of Florida avenue down to the Eastern Branch and in that direction.

I wish to urge upon the committee that the natural route for a cross-town line, and there can be no doubt about the need of a cross-town line, is from Seventh and U streets, in an easterly direction, along U to Florida avenue; thence following that avenue to Eighth street, or some other street in the vicinity, and traversing in a southerly direction until connection is made with the tracks of the Capital Traction Company, which extend from Pennsylvania avenue south to the navy-yard gate.

You by that route give the people in the east a north and south line, so they can get from the north to the southerly boundary of their section. You give to them a direct route, so that they will pass from the east in a northwesterly direction, not traversing due west and thence due north, but in a northwesterly direction, from Eighth and Florida avenue to Seventh and U streets, where they would connect with the line of the Capital Traction Company. In operating from that point in a northwesterly direction and thence to the north after they leave the city limits—

Senator DUBOIS. Do you mean that the new road should commence at Seventh and U?

Mr. HENDERSON. I mean that a cross-town road, in order to accommodate the greatest number of people living in the eastern section, whether it be this particular road or some other road—

Senator DUBOIS. Should commence at Seventh and U?

Mr. HENDERSON. At Seventh and U, because from that point in a northwesterly direction we have the U street line, operated by the Capital Traction Company, and which was the old Rock Creek line, running along U. Now, if you have a line located—

Mr. JAMES F. SCAGGS. Is it not a fact that the present railroad system has now abandoned the tracks in southeast Washington, and has not run cars over them for several years, going out G street to the Congressional Cemetery—and it would meet the same proposition?

Mr. HENDERSON. It would not meet the proposition I am advocating.

I wish to say that another reason why this line should be extended along Florida avenue is that when the Rock Creek line was chartered it was required by its charter to extend its line from Seventh and U along Florida avenue to North Capitol street. In that they defaulted by not building that portion of the line within the time granted by the charter. I say if the Capital Traction Company will do this thing the greatest number of people living in the east and northeast will be accommodated. They will be given a north and south line in the eastern section, and then a cross-town line from east to west in a northwesterly direction.

Senator MALLORY. Is there any evidence that the Capital Traction Company is willing to do that?

Mr. HENDERSON. Senator Mallory, I read with interest the proceedings of this committee on Thursday or Saturday, I have forgotten which, and I noticed that the representative of that road, the president of the Capital Traction Company, stated that if there was need for a cross-town line, his road stood ready to give the people what they needed. What I say is, do not let the president of that road determine the needs of the people. Judge yourselves of the necessity for an east and west cross-town line by the expression of the citizens as you have heard them given before this committee.

If that is so, then I say take Mr. Dunlop at his word and require him to extend the line of his road from Seventh and U street in an easterly direction, and thence south along the lines I have indicated.

Mr. Chairman and gentlemen of the committee, if you have a line along M street it is too far south to accommodate the entire section lying north of M street from there to T. If you have it along Florida avenue you will supply a territory for squares lying to the south of that main artery of the District of Columbia, and at the same time you will meet the wants of the territory lying to the north. We know that to the south it is built up. In the north it is built largely, but it is still extending in that direction and in a northwesterly direction.

When you legislate upon this question, it seems to me there should be borne in mind not only the needs of the present, but the present taken in connection with that of the future—the near future, I mean. So, I sincerely trust that when you come to make up your report upon this bill you will change the bill or propose such legislation as will require the Capital Traction Company to extend their line from Seventh and U in an easterly direction along U into Florida avenue, and thence to Eighth street or some other street, and from there south, so as to connect with their road from Pennsylvania avenue to the navy-yard, and give the people in that way an advantage they most need.

There are two things made clear in the report of the honorable Commissioners of the District of Columbia upon this bill. I have seen some question as to whether the Commissioners indicated clearly what they wanted. I say there are two things in that report which are perfectly clear. One is the need for an east and west cross-town line, and the other is that in their judgment the extension of the Capital Traction line from Seventh and U in an easterly direction along Florida avenue, and thence south, is what should be done.

I am through, Mr. Chairman.

STATEMENT OF M. I. WELLER.

The CHAIRMAN. Is Mr. M. I. Weller present?

Mr. WELLER. I am.

The CHAIRMAN. Mr. Weller, you will be given five minutes.

Mr. WELLER. I shall try to be brief.

The CHAIRMAN. Do you appear in your individual capacity?

Mr. WELLER. I am here representing the East Washington Citizens' Association, in view of the fact that Mr. Thomas W. Smith is detained at home by death in his family. He asked me, as its vice-president, to come here this morning and lay before you a few facts that he has gleaned since his first appearance before the committee.

The CHAIRMAN. Proceed, Mr. Weller.

Mr. WELLER. Mr. Chairman and gentleman, I would ask you first of all not to lay too much stress upon the protests of our birds of passage in Washington. We have a number of the so-called fashionable world who tarry but a very short while in the city, and apparently they have distinguished themselves more by their opposition than any other class of society. I think the advocacy of people who live in the city of Washington during the entire year and have to use street cars and to avail themselves of these facilities should receive more favorable consideration than the protests of those who have no positive interest, although they may be property holders, and some of them are and some are not. But under no circumstances should the protests of transients outweigh the request of an overwhelming number of people who would be the patrons of the street railroad.

I listened to the lady here this morning. She spoke about a school being destroyed because the cars would pass in front of her establishment. I should like to call the attention of the committee to the fact that the Jefferson School, in south Washington, on Virginia avenue, right in front of the tracks of the Pennsylvania Railroad Company, has not been removed.

Mr. SCAGGS. The tracks will be sunk under the new bill.

Mr. WELLER. Pardon me, Mr. Scaggs. I am calling the attention of the committee to the fact that even steam railroads do not obliterate schools by the passing of their trains in front of them.

In connection with the protest, I wish to say that if Mr. Dunlop will look at the history of his own road he will find that the first attempt to establish a street railroad in the city of Washington was in 1854. I had occasion to write on that subject some years ago, and I discovered that the protests then were very numerous, and the statement was then made that if a street railroad were to run along the line of Pennsylvania avenue it would practically destroy the value of that property. The board of councilmen and the aldermen fell in line with that same spirit, and passed resolutions denouncing the proposition to put a street railroad along the line of Pennsylvania avenue, and petitioned Congress to that effect. Your predecessors, in their wisdom in those days, positively prohibited the construction of a street railroad along the line of Pennsylvania avenue until the exigencies of the war in 1862 forced its charter. So you see protests always will come.

I fear that those parties are mostly apprehensive of the destruction of property value and are laboring under very great mistakes. I

am speaking from the standpoint of a real-estate expert, and I am of the opinion, most decidedly of the opinion, Mr. Chairman, that street railroads do enhance the value of real estate and do not depreciate it. We have an illustration, offered by the gentleman this morning wherein he says that the abandoned line along M street SE. has not enhanced values. I can assure you that since this railroad has declined to run its cars along there the property has depreciated most decidedly, and is not near so rentable, and if I were in the position that you are I would pass a bill here compelling this road, under forfeiture of its entire charter, to propel its cars along that route, which is absolutely necessary for the accommodation of that class of people who do not ride in carriages.

But on M street SE., from Eleventh street E. to Seventh street W., where the wharves are, a street railway is absolutely necessary. To-day you see abandoned tracks. That is all we have. So I think that when you prepare this bill, if it is possible to insert a clause of that kind requiring them to run along that line we people in east Washington would feel heartily grateful toward you.

Another point, Mr. Chairman, to which Mr. Smith wanted attention called is this: He has been in conference with some experienced contractors of railroads and he has been assured that the entire holdings of the amalgamated lines here, exclusive, of course, of the Capital Traction Company, could be constructed to-day, replaced in every respect in first-class condition, for the sum of \$5,000,000.

So when their capitalization exceeds that amount we are paying for wind and water, two very destructive elements, as you are all aware by looking at this morning's paper. We shall be gratified if you, in your wisdom, shall choose to pass this bill, amended in accordance with the wishes of our citizens, and complying with the request also of the protestants along the line on Tenth street, who have sought to prohibit interference with our playgrounds. We are not singling out any particular street. We merely ask for a cross-town line east and west, but particularly north and south, and we leave to your discretion what street should be selected. I thank you.

STATEMENT OF HOWARD BOYD.

The CHAIRMAN. Is Mr. Howard Boyd present?

Mr. BOYD. Yes, sir.

The CHAIRMAN. Mr. Boyd, you will be given five minutes.

Mr. BOYD. Mr. Chairman, I appear as chairman of the railway committee of the North Capitol and Eckington Citizens' Association. As Mr. Henderson, our president, has already covered the ground very thoroughly, I will take but a very few minutes.

We are here opposing the present bill as it is now pending before Congress for the reasons so clearly set forth by Mr. Henderson.

Of the things which have been developed in this hearing two are certain. One is that a cross-town line east and west in the northwest section of the city would be a great accommodation. At the same time it does not appear that it is a necessity, and while there are a few people who are not objecting to it, but consent to its construction, there is practically nobody asking for the construction of that line through the northwest. We of this association are not opposing or advocating that portion of the road, as we are not interested. But

when it reaches the central and eastern section of the city we are opposed to it as it now stands, because if it is built it will leave the far north-central portion of the city, as well as the northeast section, without the necessary facilities. It will be too far south to accommodate that section, and yet it will be too near the northern section to permit another road in the future to be built.

In this connection it should be borne in mind that the farthest street north connecting the northeast and northwest is Florida Avenue. There never will be another street farther north connecting these two sections, because of the new terminal that is being constructed and the large freight yards immediately north of this street and bordering on it.

As it has been suggested by the representative of the Capital Traction Company that it will make such continuance of its tracks as traffic demands from time to time, we submit that this is the time at which it should continue its tracks for the purpose of giving the necessary facilities to north and east Washington.

The other fact which I say has been clearly established here is that east Washington not only wants a cross-town north and south road, but it needs it. As Mr. Henderson suggested to you, east of North Capitol street there is not a single cross-town north and south line. There are about 75,000 inhabitants east of North Capitol and South Capitol streets, and if they want to pass from the north to the south it is necessary for them first to go west and then north or south, as the case may be, and again east. Now, a road commencing at Seventh street west and Florida avenue and traversing Florida avenue east to Eighth street, or some other street in that vicinity, and then south through East Washington to Eighth street and Pennsylvania avenue, there to connect with the line of the Capital Traction Company which runs east to the Pennsylvania avenue bridge and south to the Navy-Yard gate, would undoubtedly accommodate a greater number of people, and people who use street cars, than any other road that could possibly be built.

Of the streets which I have suggested there are probably none that could be used which are more peculiarly adapted to the construction of railroads. Florida avenue is one of the widest streets in the northern section of the city. I believe its width is 90 feet, with no parking. Eighth street east is a hundred feet wide. A large portion of both of these streets is not paved, and therefore the cost of the construction of the road on those streets would be the minimum on account of there being no paving. Furthermore, there are very few curves, which would render the cost of operation of the road small.

As to the classes of people now to be accommodated by such a road, we find on the north a section of the city known as Le Droit Park which is thickly populated. Immediately to the east of that is Bloomingdale, which has had a greater growth in recent years than any other subdivision. Immediately east of that is Eckington, and large freight yards are being constructed. This road would afford direct facilities to this point, which would be frequented by hundreds of people for commercial purposes. Immediately east of that we have the Columbian Institution for the Deaf and Dumb, where there are hundreds of students having now absolutely no facility to get to any section of the city without walking five or six squares. Then immediately east of that is the section on the north known as Trinidad, which at the present time is not very populous; but in view of the

fact that the Baltimore and Ohio tracks will soon be abandoned the development will probably be much more rapid in the future.

Then going across the city to the south it is built up and is populous on both sides, and is occupied almost exclusively by people who own their homes, who have been life-long residents of the city, and people who ride on street cars and not in carriages, and a large portion of whom are laboring people, and many are, or at least would be, employees probably of the navy-yard if there were any possible means of transportation across the city.

But as it is, people living in there employed at the navy-yard have to walk or go way around through the northwest. That road would also pass the Eastern High School, where there are several hundred students, and all of the students of the northeast section of the city who are attending the Washington high schools go to this school, and it is necessary for them now to walk or go way through the northwest section.

The CHAIRMAN. Mr. Boyd, some people are protesting against railroads passing schools. You are advocating it. How is that?

Mr. BOYD. One entire square is taken up by this Eastern High School and several other schools, and the Pennsylvania avenue tracks now pass to the south; and I think they have never found any annoyance from that source. The schools are removed some distance back from the pavement.

STATEMENT OF REV. DR. OSCAR J. W. SCOTT.

The CHAIRMAN. The Rev. Doctor Scott, of the M Street Metropolitan Church, has asked to be heard for a few moments.

Doctor SCOTT. Mr. Chairman, I rise to speak for a class of people who I think perhaps have not been heard here before the committee.

We do not represent the wealthy people of Washington at all. We represent the common, everyday, hard-working class of people who, when Sunday comes, like to go to church and enjoy a service. We have on M street one of the largest church auditoriums in the city. We can seat about 2,100 people. On Sundays our church, from early in the morning until 9.30 to 10 in the evening, is crowded with children and people going and coming to our church service.

When the question of running a railroad line was discussed, and whether or not it would be advantageous to people coming to our church from Georgetown and in the northeast and other sections of the city across to our church, we canvassed the situation and found that our congregation was opposed to a route coming in front of the church property. As has been stated heretofore, the street there is very narrow. We have been struggling for twenty-three years and more to pay for what we think a very desirable church location and building. We have been enjoying, aside from the debt, peace and happiness; but we believe that the railroad coming so near our church—it would come up within a few feet of the pavement—would make a noise that would annoy the services, and it would also be dangerous to the hundreds of children who are sent there to the school, both during the day, on Sunday, and during the week.

It would necessitate our moving our trees and tearing up the pavements there, and I think I voice the sentiment of the entire membership of the church when I say that the expense which it would neces-

sitate our going to in order to make the improvements there on account of the coming of the new railroad would bring a very heavy burden upon us, and we are unanimously opposed to the road coming along there.

In saying that, Mr. Chairman, do not understand us to say that we would like to have the railroad come by some one of our neighbors' churches. We are willing to stand any of the annoyances that any citizen is compelled to stand in order to accommodate his friends, and we do not ask for ourselves what we would not be willing to have the other people of our community enjoy.

I want also to speak a word for 700 school children who attend the schools in the block below. As a representative of my people, I also speak for the patrons of the Magruder and Sumner schools. There are two livery stables opposite those schools. There is a blacksmith shop by the side of the schools. The street is somewhere between 30 and 35 feet wide in front of those schools, which are attended by 700 children, a large number of whom are little fellows attending the kindergarten. I have children in one of the schools myself, and a great number of the membership of my church send their children to them. Now, with two livery stables—one herdic barn and a livery barn—and a blacksmith shop, and the automobiles and then a street-car line, it would seem as if we intended to murder those children in spite of themselves. We have now a petition to give them some more room where they can play; but that matter has not been settled, and with the street-car line coming there now, we feel that it would be a very serious damage to the children in life and limb.

For that reason, Mr. Chairman, I am very glad to have the opportunity of protesting against it, for the patrons of the Sumner and the Magruder schools, as well as for the 1,200 or 1,500 members and attendants upon the Metropolitan Church, located on M street between Fifteenth and Sixteenth streets NW.

I thank you.

The CHAIRMAN. General Harries, you will now be heard for the time allotted.

Senator MALLORY. Before General Harries proceeds, I would like to ask whether there has been anyone here before the committee making a statement as to the necessity for a road from the Aqueduct Bridge over to this part of the city, except the argument that was made by Senator Butler.

The CHAIRMAN. I would say, Senator, that various letters and petitions were filed this morning, one containing the names of 239 residents of M street, in favor of the road, and petitions and letters from various other people, asking for the building of the line.

Senator MALLORY. Have any witnesses testified on the subject?

The CHAIRMAN. No, sir; I think no one else. There are gentlemen present this morning who will represent that side of the case.

Mr. GOLDSBOROUGH. Mr. Bulkley spoke for the Business Men's Association, representing 700 business men.

Senator MALLORY. As to the necessity of that route?

Mr. GOLDSBOROUGH. Yes, sir; a cross-town road.

Senator MALLORY. All the way from the Aqueduct Bridge?

Mr. GOLDSBOROUGH. All the way from the Aqueduct Bridge. So did Mr. McPherson.

STATEMENT OF GEORGE H. HARRIES.

The CHAIRMAN. General Harries will now be heard for the time which has been allotted to him.

Mr. HARRIES. Mr. Chairman and gentlemen, a modern sage has said that "if judges would make their decisions just they should behold neither plaintiff, defendant, nor pleader, but only the cause itself." May I ask that you gentlemen try this cause with regard only for the purely judicial, eliminating from your minds any impressions that may have been made by advocates whose endeavor it is to build up for themselves a financially profitable structure at the expense of those who now occupy the site and who must inevitably suffer diminished growth and material loss if either of the bills now before you shall become, in any sense, effective.

In presenting the case of the Great Falls and Old Dominion Railroad Company, Senator Butler said there were two questions of issue—first, "Do we need a cross-town railroad?" and, second, "What route should it follow?" He evidently deemed it unnecessary to make mention of the third question: "Who should build it?" So I add it to the accepted two and will endeavor to discuss the three.

Whence comes the demand for a cross-town line? Is it in evidence? Senator Butler spoke of it and said there was no protest against a cross-town line. Naturally, there would be no protest against such a general proposition as an unlocated cross-town line. The public is always willing to permit investment in anything that does not mean increased taxes, and if the investment proposed is to be in a railroad the average property owner will bid it "godspeed" if it will only run in front of some other man's property a square or two away.

What have the District Commissioners said of this somewhat-neglected feature of the proposition now under discussion:

"Taking the northwest, there is a general feeling that an east and west cross-town line is desirable; that it will facilitate travel to the new railroad station, and be an accommodation to many who wish to go across the city. That this is a real demand appears on its face by the desire of this new company to construct a route along these lines. While this seems to be the general feeling, and it has been so stated by the board of trade and others, there has been no large body of citizens which has in any way appeared before the Commissioners to make any effort to establish this fact. The street railway would not reach any of the Government Departments or the business section of the city, except by transfer. It would not be the daily business route of many persons, except by transfer, because it goes through entirely a residence section. Most of the steam railroad traffic goes to the hotels, which are not on this line.

"As to suburban lines from Virginia, except to the new railroad station, which would not be often the case for any one individual, transfers would be necessary to reach directly the departments or the business section."

There being absence of protest by uninterested citizens who might possibly arise to interfere with any corporate attempt to spend a few hundred thousand dollars in the public behalf, the Commissioners declare that—

All in all, it may, therefore, be said that the people in the District as a whole consider—

In spite of the fact that no testimony has been offered—that a cross-town line would be a convenience, especially for social purposes and for reaching the parks.

Supporting this somewhat vague conclusion is the approved 1903 report of the committee on railroads of the Washington Board of Trade, which says:

The committee renews its recommendation that an east and west cross-town line should be provided for the upper northwest section of the city.

Still somewhat vague, and not strongly magnetic so far as the railway investor is concerned, but indicative of a covert general desire for the existence of something that might at sometime or other prove to be a convenience.

At this point let me say that no one of our companies has ever at any time received a request from any individual or any organization for the construction of a cross-town line.

Mr. HENDERSON. May I interrupt you for one moment?

Mr. HARRIES. Certainly.

Mr. HENDERSON. In regard to that statement, I will say that the request was made years ago of the Capital Traction Company.

Mr. HARRIES. I am not talking about the Capital Traction Company. I am speaking of our companies.

Mr. HENDERSON. The syndicated roads; I understand.

Mr. HARRIES. The demand was coeval with the desire of the Great Falls and Old Dominion Company, was artificially created, and has been carefully sustained at considerable expense.

If, however, a cross-town line shall be necessary it should not be as far south as M street. No public interest is served along that entire route. The street for a cross-town line is P street, along which are attractions enough to encourage the organizer of a traffic-carrying corporation. There, or very near to it, are the two great manual training schools, the Central High School, the fine O and P street market, the Riggs Market, churches plenty, some of the biggest apartment houses in town, and, in the near future, the Business High School. Careful watch over that and neighboring thoroughfares has not yet revealed the prospect which allures to construction, yet we have never been unwilling to make the venture.

Perhaps a material good will come out of the vexations and delays. Perhaps we shall achieve the long-sought results at comparatively small cost. Transportation methods are moving forward with giant strides, so that it is not unreasonable to nurse the infant assumption that within the present decade the present method will become practically obsolete. With the best of these developments we are in close touch; so close that it is my hope and belief that we shall soon demonstrate their efficiency by the operation of a nonrail cross-town line connecting Eckington and its vicinity with our western and northern lines at Dupont Circle. That sort of a cross-town line will possess merits not to be claimed even by the publicly-enthusiastic advocates of the measure now before you.

Third in numerical position but of supreme importance is the question "Who shall build this cross-town line?"

Let us hear what the District Commissioners have to say on that score. I quote from their report on the pending bill:

"As a general proposition the Commissioners are in favor of the

extension of the existing lines rather than the introduction of new ones within the city, as experience in the past has shown that the consolidation of a number of roads authorized by Congress has been a benefit. Such extension could be built at a less cost and operated for less money, so that greater facilities, such as transfers, could be afforded the public. The officials of the existing railroad companies have expressed themselves as willing to extend their lines whenever traffic warranted it."

Supporting that comes the board of trade with this:

"It is not thought wise that a new company should be chartered for this purpose, but Congress should require one of the existing systems to construct and operate such a line as a part of its service."

Similar ground has been taken with relation to the north and south line by the East Washington Citizens' Association (also included in the board of trade recommendation), while of the Bladensburg road extension in this act the Commissioners say flatly that it should be constructed by the company I have the honor to serve as vice-president.

With facile brevity, counsel for the inlooking corporation publicly submitted to himself a few interesting queries, and with wonderful promptness gave answer. From that short catechism we learn that there can not possibly be any reason why the existing companies should serve the needs of this city. He denies the possibility of cheaper operation, although he knows that an independent company must be more expensive to install and operate—from power to salaries—than the same trackage would be if handled as part of an existing system. He even goes to the unexpected extreme of ignoring local street railroad history by declaring that there is every reason for keeping this construction out of the hands of existing companies "because they are not offering to make the extension; because you can not force them to do it; because the public was crying for a cross-town line and the Old Dominion Company is the only one offering to grant their petition."

Did anybody ever hear the cry? Suppose we spend a minute in looking at extensions and improvements made by existing companies during the past six or seven years, simply to prove that we do not do these things, never have done them, and never will, and do not want to.

First, there was the extension of the Metropolitan Railroad from Connecticut avenue and S street out Columbia road to Eighteenth street. A little more than a year ago the same line was extended all the way out Columbia road and old Sixteenth street to Park street, Mount Pleasant. The Anacostia Company pushed northward from P street, through Le Droit Park to Seventh and Pomeroy streets. The Columbia Company sent a spur from its Benning extension into and through the subdivision of Kenilworth.

During that same period, if I may be pardoned for mentioning the affairs of the other company, the Capital Traction Company built its F and G street extensions, its absurd extension from Eighth street SE. to the Pennsylvania avenue bridge, and pushed from the Baltimore and Ohio station to and along the north side of the Capitol grounds, looping down First street east to C street.

Those extensions cost more than \$1,000,000 and not one of them has been profitable. But they were built because there was more or less of public demand.

Then turn your eyes to extensions authorized or in contemplation.

The Anacostia company is about to construct an extension of its Eleventh street line from Florida avenue to Lydecker avenue and hopes to have cars operating thereon before the summer is past. Before this committee, but as yet unacted upon, are requests for authority to make such changes in existing lines as will enable the public to connect closely with the new Union Station; requests that when granted will cost our companies, not speaking of the Capital Traction Company, more than a quarter of a million dollars. And when the changes have been made we shall not carry any more passengers to or from trains than we now do, or than we would were the steam terminals to remain as they now are. Can any rational being hold that we are lacking in proper spirit or that we are careless as to the joint and mutual interests of our companies and our patrons?

Hearers of the Old Dominion war cries might possibly imagine for a moment that there never was a street railroad in Washington such as it declares itself to be.

Listeners to the flamboyant three-sheet oratory of the projectors and the affectionate murmurings of their representatives may be forgiven if for an instant they are enamored of what is declared to be the only true friend to the public that ever bore the hated name and sign of corporation.

Yet a brief glance at the list of officers and directors fails to reveal the name of anyone who is working for his health, who is toiling for the public welfare, who sits up nights studying how best to advance the interests of anybody else.

Not so long ago I was discussing corporation matters with a gentleman—one of my very good friends—who is deeply interested in this bill. Jocularly I made reference to his evident interest in the public, to which he replied: "Don't you believe it for a moment. I am for myself, and any rumor you may hear on the street to the contrary is without foundation in fact." Characteristic, frank, accurate, and applicable to every thought, every movement, every semblance of force behind this measure.

Now, let us see what our companies have tried to do, but without success:

For years the Columbia Company did its best to cross the gap from Fifteenth to Seventeenth streets, NW., so that it might cover the territory now occupied by the F and G street lines of the Capital Traction Company, either by trackage over the latter's right of way for two squares, or by running along H street to Seventeenth and thence southward and westward.

Then the Belt Line made an effort, in 1893, to secure cross-town rights on L and M streets, but was upset, because there was no public demand for such a line. Senator Gorman, now a member of this committee, introduced that bill in the Senate, and is undoubtedly acquainted with its history.

Three years ago I made strenuous effort to convince the then chairman of this committee that it was time to think definitely about a line on O and P streets.

We had tracks on those streets at that time, and prior to their being taken up the matter was discussed.

The esteemed Senator went over the route, and when I next approached him on the cross-town topic said: "My dear fellow, I am your friend. Don't think of urging anyone to put money in such a

scheme and don't think of stirring up the Senators and Representatives whose residences are so plentiful along your chosen route. There is no demand for such a line. Look after what you have. Leave well enough alone." There was nothing more for me to do. I never was foolish enough to push a bill when the chairman of this committee advised against it.

In February, 1902, we made another effort to tap the untracked region. We asked that the Columbia Company be authorized to extend from Ninth street NW. along Massachusetts avenue to the District line. The measure was urged vigorously, but I have never heard that a committee gave it consideration. All the information that came to us was that there was no public demand for such an extension.

The CHAIRMAN. May it not be said likewise that there is an overwhelming sentiment against putting a street railroad on Massachusetts avenue?

Mr. HARRIES. I find a great deal of sentiment against putting a railroad on any street, and so there is a very strong sentiment against putting one on Massachusetts avenue.

Senator FOSTER, of Washington. Is there not sentiment from people living on other streets against putting a railroad on Massachusetts avenue?

Mr. HARRIES. Yes, sir; and it was provided that there should be no construction without the consent of two-thirds of the property owners.

But it is only a small part of our case to set forth the extensions we have made, are making, and desire to make. Let us glance at some of the direct good we have done for Washington.

The obstacles surmounted by the management of the syndicate roads have been forgotten by many. Some idea of the conquered obstructive conditions may be secured from a comparative sketch printed in the fiftieth anniversary edition of the Evening Star, a portion of which sets forth:

"Before the incoming of the Washington Traction and Electric Company—now the Washington Railway and Electric Company—there were many street railway organizations; mostly disconnected, generally antagonistic, ancient as to equipment, wonderfully inclined to careless operation, devoid of transfer relationship, and unable to gratify on a cash basis any considerable percentage of their creditors. There were some extraordinary and brilliant exceptions, of course, but there were so many corporate cripples, so many lean horses and shabby, bobtail cars, so many agitating streaks of rust with divorced joints, so many crumbling roadbeds and rickety trestles that the casual observer of the entire situation found it practically impossible to carry away an impression that would average as high as 'good.'

"From any other point of view than that of the far-sighted and long-suffering railway investor the proposition was not attractive, but that kind of a man would not permit himself to be downed by little things, even if there were very many of them, so, with his mind made up, the investor reached out and secured 11 of the good, the bad, and the indifferent, as follows: The Metropolitan Railway Company, the Columbia Railway Company, the Anacostia and Potomac River Railroad Company, the City and Suburban Railway of Washington, the Brightwood Railway Company, the Washington, Woodside and Forest Glen Railway and Power Company, the Georgetown and Tennallytown

Railway Company, the Washington and Rockville Railway Company, the Washington and Glen Echo Railroad Company, the Washington and Great Falls Electric Railway Company, and the Capital Railway Company. Also he secured control of the United States Electric Lighting Company and the Potomac Electric Power Company, believing that they might be operated in harmony with the railroads.

"It was a bold venture. It would have been a bold venture had all the properties been in workable condition. The properties had not merely to be purchased; several of them had to be wholly rebuilt, while there was abundance of opportunity for necessary and expensive patching. For that \$1,000,000 were spent in the reconstruction of the properties."

I emphasize that, because of a very absurd statement made here to-day relative to the cost of construction. Over \$1,000,000 was spent by us in two years on reconstruction alone, and only on a small part of the property.

"Large sums were disbursed in the rebuilding of the Brightwood and Forest Glen lines. Then there was the reconstruction of the Georgetown and Tennallytown and the building of the Washington and Rockville. Steel bridges with stone abutments superseded the decayed trestle work on the Washington and Great Falls line, and the entire road was double tracked. To catalogue the work done and to recite in detail the expenditures so liberally made would weary the reader.

"While the work of construction and reconstruction and repair was being pushed, strenuous efforts were also being made to adapt the equipment of the various lines to the uses of the companies and the patronizing public. In all the history of street railroading there was probably never such a museum of equipment as that which passed into the possession of the syndicate—every known variety of car, all kinds of trucks, with motors ancient and modern, and controllers ranging from the first and the worst to the last and the best. Then the method of handling many hundreds of employees had to be systematized. Each road had been run after its own fashion, and sometimes the fashion was a very old one. The bringing of all these inharmonious elements—animate and inanimate—into some semblance of order was a tremendous task that at times, especially when the financial condition took a turn for the worse, seemed to be almost impossible.

"Necessarily there was a great deal of experimenting, and some of this took place even before serious effort was made to weld the lines into a system. Occasionally one of the experiments would prove successful from the popular point of view, but more frequently it met with so much disapproval as to cause the management much embarrassment. After awhile there was a satisfactory condition, so far as roadways were concerned, and then there came betterment as to cars and equipment. Coincident with these things was the trying out of the transfer question, a problem of huge dimensions and filled with almost as many intricacies as there were passengers to be considered. As to schedules, there were many opinions, and as most of these were expressed in such a way as to attract the widest possible attention the situation was both involved and noisy. Out of it all there came—and in such a short period of time that even the most critical were amazed—a system of transportation which is a surprise to every visitor and a gratification to every resident. Of course, it is still short of perfec-

tion. It will always be more or less defective, because it is controlled by human beings, and perfection in human beings is not expected; but it will be better a year from now than it is to-day, and it will be better two years from now than it will be a twelvemonth hence. It is the plan of the management to steadily improve the rolling stock until the equipment is practically of one type. Even when that has been accomplished it is not supposed that it will result in expressions of unusual pleasure, but it is believed that the great majority of the public will be well satisfied.

"No city in the United States has railroads which give to the public so much of a ride for so little money as Washington. For 4½ cents a passenger can be transported comfortably and speedily from the northern boundary of the District to the southernmost railroad point, away beyond Anacostia, or from the District line on the east to the District line on the west. Such tremendously long rides for insignificant fares are not the result of Congressional enactment. They have been arranged by the companies, because it is the plan to encourage riding. In other cities it may be possible to travel as far for 5 cents as one may travel here upon tender of one of six tickets which may be purchased for 25 cents; but in no other city of long rides, except New York, is the passenger carried over an underground electric system—which cost more than \$100,000 per mile—of double track. Elsewhere is the infinitely cheaper and aesthetically less desirable overhead trolley, with its obstructive poles and exposed wires. Washington's streets are clear and its car service about as near ideal as it could be at this time."

Attention should here be directed to the fact that the stockholders who achieved the results just catalogued have not received one cent of dividend on their enormous investment.

The stronger companies have supported and carried the weaker organizations to the end that a fair average of prosperity be ultimately struck, although in the doing of this there necessarily ensued a great deal of delay in the important matter of corporate recompense. And now, when there is prospect of something that looks like a dividend, the holder of our securities finds himself an object of assault at a point where he should need no defense.

In every sense the community has been the beneficiary. The purchase price of the roads went to the local men and women who owned them, the millions spent in reconstruction were disbursed in the city, the betterment in equipment and operation (including tremendous extension of the free-transfer system) contributed beyond material calculation to the public comfort, convenience, and rapid transit.

Now, something as to the bill itself: When the Great Falls and Old Dominion Railroad Company asked for the right to cross the Potomac on the Aqueduct Bridge there was no objection. That suburban lines, real or contemplated, should connect closely with city lines is a fair proposition, for by such conjunction, when it becomes actual, the public is served without injury to any interests, but when, as in the measure under discussion, the suburban company seeks authority to construct and operate a city line—valueless of itself but to be made valuable by the free and unlimited use of existing city systems—then the request is selfish, unreasonable, and not in accord with the best public policy.

At some future time—when the Virginia road has gone through the deliberate processes of grading, construction, and settlement—there

may cross the Potomac the infrequent cars of the Old Dominion and Great Falls Railroad. That the schedule will involve a close headway is impossible in a business sense, for the region through which runs the projected line is but sparsely settled and will not be otherwise for many years; an average of one car an hour during the greater portion of the year will more than take care of the traffic between Rosslyn and Great Falls. That an independent line will be needed to take care of that traffic would be an absurd contention. At the north end of the Aqueduct Bridge is the half-million dollar station, built by the Capital Traction Company for the purpose of accommodating suburban lines, and equipped with all the facilities for handling all the passengers electric railroads in northern Virginia are ever likely to turn over to the District of Columbia. Transfer of passengers would take place within the structure and under the best possible conditions.

If, however, there is serious consideration of the idea that an urban dog is to be fitted to a suburban tail, it may be here advisable to mention the proposed route in so far as it parallels existing lines; which it does east of the great Union Station about to be constructed on Massachusetts avenue. The proposition is to build on north E and F streets and Maryland avenue to and beyond Fifteenth and H streets northeast. The line of our Columbia division is on north H street, the lines of the City and Suburban Railway are on north C and D streets, while our F street line run out East Capitol street, thus affording most ample accommodations to the northeastern section. Surely there will be little consideration for such an attempt to injure properties that have had so much of difficulty in establishing themselves. The City and Suburban construction was pushed eastward far in advance of any reasonable necessity; it has made available what had long been regarded as one of the most unprofitable and unpromising of localities, and in the doing of that great and comparatively thankless task has achieved a receivership.

Now that there is promise of profit in the northeast, the struggling company is threatened with a rival whose financial condition will not be encumbered with the great burdens consequent upon the pioneering and experimentation, burdens so heavy that years of success will be needed to wipe out the floating debt incurred wholly in efforts to meet Congressional and public demands for reconstruction and reequipment. The unfairness of requiring expensive installation and then permitting the financially adventurous to parallel with tracks that would be absolutely valueless, even in the promoters' calculations, did they not figure on securing the dishonest absurdity of free reciprocal transfers, must be instantly apparent to every thinking person.

During the course of this hearing reference has been made to the profitable outlook enjoyed by the Great Falls and Old Dominion Company. Such a reference could not possibly have been made by anyone who knows anything of construction and operation. Eliminate the real-estate feature and make impossible any operation as to consolidation and you take away every charm this measure has in the eyes of those who are responsible for its being. The Washington and Georgetown Company built a horse-car line in the heart of the city, and borrowed money for ten years with which to pay for horse feed. The Metropolitan Company, collecting a 7-cent fare, did the same thing for as long a period. Since then line after line has come into existence only to go through similar experiences, and the more remote

the line geographically the longer the period of inability to meet from earnings the daily demands for wages and material. Yet this line, planned to run through a sparsely populated region in Virginia and hopeful that it may be permitted to install the most expensive of railroad construction on a cross-town street remote from the business center, is to be profitable from the moment when its rolling stock begins to carry passengers. What an evident absurdity.

That a direct line from Virginia farm lands to and across the nation's capital city would be of incalculable real-estate advantage is a conclusion as to which there could hardly be discussion, but neither the National Government nor the District of Columbia would share in the accruing benefits. We know where the profits would go, and we know, furthermore, that when the railroad scheme drops into the hands of a receiver no one of the gentlemen now so seriously concerned in its behalf will be found among the host of creditors, nor will the names of the officers and directors of to-day be on the list of wiped-out stockholders. The game is as old as the railroad business.

The precedent sought to be established is of the utmost importance. If you admit the real estate or railroad speculator at one point how can you refuse him admission at any other point? Then how shall the existing lines do business? It may be urged that the committee—that Congress—could discriminate. That is excellent theory, gentlemen, but it might occasionally fail to work. The best of good intentions are subject to the misshaping influences not unknown in political life, and the best of good men have screened their opinions with silence in efforts to be politic and courteous.

Next to the right to build an east and west line within the District of Columbia—that being regarded as the first and necessary step—the Great Falls and Old Dominion Railroad Company most desires the enactment into law of the closing provision of section 3, which is:

"And the Great Falls and Old Dominion Railroad and all other street railways in the District of Columbia shall reciprocally issue free transfers at all connecting and intersecting points of their respective lines."

It must be evident to anyone who will give the situation a little thought that a direct and independent line to and beyond the new Union Station would not of itself be worthy the attention of any kind of a financier. The number of passengers entering the city from Virginia is bound to be comparatively small, and the number of passengers who would want to travel from the Aqueduct Bridge along M street and New Jersey avenue to the great steam terminal would not contribute enough in a year to varnish the three or four cars such service would call for. It would be economy either to transfer the Virginia passengers to the Capital Traction Company or to secure trackage rights for a through car from Virginia over the lines of the Capital Traction Company to the Union Station.

But the suburban traffic is of comparatively little importance to the Great Falls and Old Dominion Railroad Company. What it wants is a city line, and to make that city line worth having it asks, with consummate effrontery and conscienceless greed, that there be given it free reciprocal transfer privileges with the lines of all existing companies at all connecting and intersecting points. That means twelve additional transfer points on the lines owned and controlled by the Washington Railway and Electric Company. It means $2\frac{1}{2}$ cents per

passenger for us instead of an already too-low rate of $4\frac{1}{2}$ cents. It means that a new company seeks to use for its own profit the established lines which have come up to present conditions through great financial tribulations; lines that exist only because they have been managed with the utmost care. It means the establishment of a precedent such as is not known in any other city in the world—the free and unlimited transfer privilege between unrelated companies.

Few people have any information as to the cost of carrying passengers in the District of Columbia, and fewer still have information as to the comparative receipts here and elsewhere.

During the year 1903 we carried on all our lines within the District more than 57,000,000 passengers. Of these, less than 40,000,000 gave cash or ticket fares; the remaining 18,000,000 rode on free transfers. The arithmetic involved is simple and shows that we received less than 3 cents for each passenger; to be exact, it was \$0.02977.

In no other city in the country are there more privileges for the passenger. Outside of Washington the rule is for straight 5-cent fare; here we are required by law to sell 6 tickets for 25 cents. The difference may seem slight to those who do not give this matter thought. Let us see what the difference really does amount to. Last year nearly seven and a half million passengers paid cash fares, while about thirty-two millions paid for transportation with tickets. I am speaking only of our lines. Reduced to the language of business, this means that the traveling public saved to itself by the use of tickets on our lines alone more than \$268,000. That sum added to the receipts of our system would have made possible the doing of many things that may not now be reasonably asked for.

In many cities—notably in Philadelphia—passengers pay not only the straight 5-cent fare, but they also pay 3 cents for every transfer; yet in Philadelphia the street-railway equipment is overhead trolley, which costs less than 50 per cent of the cost of the system which Congress has compelled the Washington companies to use.

Senator MALLORY. Do you not think that the effect of reduced rates is to increase the number of people who ride, and is that considered in your estimate?

Mr. HARRIS. Yes, sir, we have considered that; but there comes a time when you are so near to cost that further reduction is not possible and further increase can not be calculated.

The concrete fact is that in other cities the investment and the consequent fixed charges are less while the receipts per passenger are very much more than they are in the District of Columbia. How, then, can any rational person demand additional privileges without proffering additional compensation?

An extraordinary provision in an extraordinary bill is that found in the last five lines of section 1. There it says:

“And that it shall have and may exercise within said District every power, right, and franchise conferred by general or special act of Congress upon any other corporation now authorized to maintain or operate a street railway therein.”

It would be a remarkable thing if such a provision should be enacted into law. Many of the charter rights were conferred to meet peculiar conditions; others were of so much importance as to demand and be accorded the most careful consideration with all the testimony in full view. It is difficult to imagine that the promoters of this proposed

trespass were serious in this demand for "the earth and the fullness thereof, the world and they that dwell therein." Some of the things that might be done through combination of the many charter provisions—ancient and modern—would hardly be likely to meet with majority approval. The charter—if there is to be a charter—should be clean-cut and specific.

Fair reflex of the true character of the proposition presented by the promoters of this measure is found in section 4. The demand in section 1 for a franchise containing every feature of all existing local franchises is bad enough, but section 4 outstrips it completely by giving to the Great Falls and Old Dominion Railway Company the rights to finance and operate an extraordinary Federal charter—wherever that instrument shall develop loopholes—in accordance with such elastic requirements as are or may be set forth in company-dictated acts of the general assembly of the State of Virginia. This suggestion of giving the State of Virginia jurisdiction as to any corporation in the Federal capital has at least the merit of novelty; could it possibly become effective it would be a valuable privilege because there would then be no real limitation as to the issuing of bonds or stock, nor would there be any other than company control over the character or distribution of such securities.

Much more might be said of the Old Dominion bill, and a great deal also of the substitute measure which accompanied the report of the District Commissioners, but I have somehow gathered the opinion that the committee does not care to deal with details at this time. Your present problem is large and of overwhelming importance. Your decision is being awaited with true anxiety by invested cash contributed by tens of thousands who never dreamed of such a situation. You are called to pass upon the legal and moral rights of bondholders and stockholders whose well-being is menaced by this bill.

Four years ago the last horse car was banished from our streets, being succeeded by the most modern of motive forces and the best of equipment. Beneath the street surface, along our principal thoroughfares, far into the suburbs, and in great structures devoted to the generation of electric power, is found the material which represents lavish expenditure for public needs; millions upon millions of dollars distributed to meet the demands of the community and to enhance property value alike for the just and the unjust. How much the betterments have achieved for Washington may not easily be computed, but one of the most conservative of financiers and of reliable real estate appraisers in the country said some two years ago that "fifty millions of dollars have been added to the value of Washington and suburban real estate by the work just completed by the syndicate railroads." Right here is the place to emphasize the fact that when this great and expensive construction and reconstruction was being financed it was found necessary to go out of town for every dollar. Local landowners, who are now among the most selfishly critical, could not be persuaded to invest a nickel in what they knew would enhance wonderfully the value of their properties.

Here I should be derelict if I failed to call attention to one matter of supreme importance to every living interest in the entire District; a vital feature of this controversy. Careless criticism of public-service corporations, such as is unknown elsewhere, unreasonable agitation, which, by its persistence has achieved the dignity of recognition by

the authorities and efforts to bring about municipal control without even a suggestion of the equitable corollary—municipal ownership—have combined to make Washington a very undesirable place for investment. The cautious Washingtonian recognizes this condition by sending most of his money to other cities; the outside financier has almost reached the point of declining to put his funds where they may be at the mercy of “government by citizens’ associations,” in which, as a rule, the active and normally agitative few presume to speak for the silent and satisfied many. With such a condition prevalent the city’s growth will be retarded beyond computation and to such an extent as to interfere effectively with the plans and profits of the short-sighted folk who find perennial satisfaction in seeing ill in everything but themselves, and whose intelligence in this matter has not figured out the certainty that divided business means decreased receipts and that decreased receipts must mean poorer service.

The great combination of benefits accruing to the public from our investments necessarily made deep, and we hope lasting, impress on the Congressional mind. For years there has been steady growth of Congressional sentiment favorable to Congressionally controlled monopolies in public-service corporations, and when the testimony of the syndicate was submitted there was no remaining remnant of doubt. Authority to consolidate was immediately given—unquestioned evidence of Congressional approval. This was in line with all recent law-making conclusions as to the quasi public concerns in the District of Columbia—one gas company, one telephone company, one electric-lighting company—and established a precedent not easily to be ignored. Why, then, should there be any legislation authorizing an addition to the number of existing companies?

If there is real public necessity for additional lines in any part of the city, would it not be much better to require construction by one of the companies now doing business? Free transfers would then be natural and certain. To charter another company simply puts into the market another organization ready and, it may be, willing to be acquired—at an advance—by those already in existence. If extensions or cross lines are needed, they should be supplied by the people now in the field. Congress has the power to require us to make extensions. Why will it not exercise that power rather than permit the introduction of a temporarily discordant element that may soon be converted into an expensive acquisition? If there be real public demand for additional facilities north or south, east or west, I am authorized to pledge the Washington Railway and Electric Company and its associated companies to do everything that may reasonably be asked of them; and Congress shall judge as to what is reasonable.

Senator MALLORY. Do you personally think there is any necessity—

Mr. HARRIES. For the building of such a railroad north and south in east Washington?

Senator MALLORY. Yes.

Mr. HARRIES. There ought to be facilities there. I have no doubt of that at all.

Senator GAMBLE. That is what I was going to ask you about. Excluding an east and west road, do you not think—

Mr. HARRIES. If I may for a moment depart from the line of thought—

Senator DUBOIS. Let me put a question right here, if it will not divert you?

Mr. HARRIES. It will not divert me at all.

Senator DUBOIS. A gentleman stated here this morning that there is no necessity for beginning the road until you reach Seventh and U. Do you agree with that?

Mr. HARRIES. My thought is this. May I say in explanation—

Senator DUBOIS. He said there is no necessity for a road between the bridge and the northeast.

General HARRIES. Not so far south as M street. We have held to this, and we have been working at it consistently for more than a year and a half, that there should be a line of communication, and in our belief an automobile line, because nothing else will satisfy. You could not get a railroad on any street without tremendous public opposition and without an enormous first cost, with resulting tremendous fixed charges. The business will not carry it. It is not there.

We have experimented with it. We have had machines here. We have gone to Chicago. We have gone to look at machines wherever they were. We are thoroughly satisfied that we now have a machine which will do the work, and our proposition, and we have got it almost to the point of establishment, was a line from some point where we could tap the City and Suburban line, say North Capitol street and N street, that being a good point, hit the north line and the Maryland lines, and run across from there on N street to New Jersey avenue, to P, and directly out P street, with an unobjectionable means of transportation, to Dupont Circle, where we would connect with our north and west lines, so that it would be possible on a transfer to go through to Georgetown and possible to go up to Mount Pleasant by transfer with our Connecticut avenue line.

Senator MALLORY. Now as to the other question.

Mr. HARRIES. A north and south line in East Washington? There should be some connection there between at least Florida avenue—although with the automobile there would be no point in fixing upon a terminal which should be a railroad terminal, because it is flexible. It should run down to the navy-yard and perhaps to the Anacostia bridge, and we are so near the doing of that (we have been working at it for eighteen months past) that a delay in this hearing would probably have found the thing in shape and ready for public announcement.

Senator MALLORY. The U street road is probably the only road that would serve that purpose?

Mr. HARRIES. The Capital Traction line at Seventh and U.

Senator MALLORY. At Seventh and U? It would run down in a southeasterly direction.

Mr. HARRIES. Yes, sir; if you are going to take Florida avenue.

The CHAIRMAN. General, you spoke of your willingness to extend your lines. I wish to call your attention to the fact that two bills are now before this committee concerning which I am getting an average of six or eight letters a day, and against which I think the Commissioners have reported. Those are bills extending the road to the Soldiers' Home gate or somewhere in that vicinity.

Mr. HARRIES. Yes, sir.

The CHAIRMAN. I have answered those letters as well as I could to the

effect that the Commissioners having reported adversely upon the bills, it was not probable that there would be favorable action on them at present.

Mr. HARRIES. No, sir. It would hardly be reasonable to expect in one session of Congress all the extensions to be made that are asked for. The money bag has a bottom once in a while.

The CHAIRMAN. Of course, General, we shall have to do it at some session of Congress, if we do it all. We have not burdened the roads in recent sessions so far as extensions are concerned.

Mr. HARRIES. There are pending bills affecting the situation as to the Union Station which will cost us a quarter of a million dollars.

The CHAIRMAN. You will have to get to the Union Station. There is nothing for Congress to do but to send you there.

Mr. HARRIES. We are perfectly willing to sit entirely still and wait until Congress does it. We are not anxious. It is an expenditure that is not going to bring in a nickel.

The CHAIRMAN. You say you are not anxious?

Mr. HARRIES. We are not anxious, because we have two lines that run there.

Senator MALLORY. They do not seem to have been anxious at this session. That bill has been lying there for some time.

The CHAIRMAN. The chairman has been requested by both railroads to take it up.

Senator MARTIN. The depot is not ready.

The CHAIRMAN. However, I do not mean to interrupt you.

Mr. HARRIES. It is all right.

The CHAIRMAN. I have been troubled about those two extensions, because of the clamor in certain directions for action.

Mr. HARRIES. If I owned large unimproved real estate in that neighborhood, I would be clamoring, too.

Senator GAMBLE. Excluding the consideration of an east-and-west line, have you in contemplation the extension of a north-and-south line in East Washington?

Mr. HARRIES. Yes, sir; that is a part of this same automobile proposition.

The CHAIRMAN. You spoke about a delay in this hearing. Of course you do not find fault with the committee?

Mr. HARRIES. Oh, no; but if there had been a little more delay we would have had a definite statement to make.

The CHAIRMAN. This bill has been before the committee for four months.

Mr. HARRIES. There was no criticism intended by that remark.

The CHAIRMAN. I hope not.

Mr. HARRIES. If there had been two or three days more delay we might have had a very definite statement to make.

Upon a rational and well-founded theory that the general public must be protected wherever it seems incapable of protecting itself, the Federal Government has enacted and enforces more than one variety of restrictive legislation. What may ultimately be accomplished by these statutes is of course problematical, but the one thing to be hoped for is financial security of the sort which is liberal enough to do business wisely and conservative enough to guard the innocent and often uninformed investor. How far this governmental power may venture into the territory of private corporations is a question,

but in the matter of public-serving companies under its hand it should at least see to it that the investments are safe.

Secretary Taft has said that railroads, more than anything else, are needed for the development of the Philippine Islands. Recently he was quoted as saying to a Congressional committee that the railroads could not be constructed unless the Government of the United States guaranteed the investment. We are rapidly approaching such a condition at our seat of government. To ask a guaranty of the Government might appear extreme, but it is surely not asking overmuch if we call upon your committee and your official associates to protect those who accepted the act of the Government in good faith and who believed that the faith expressed in works and dollars would be reciprocated by the great law-making power of the nation.

The Congress of the United States can not, in equity, depart from a clear understanding. It should never become a party to the raiding of a property which came into existence by the Federal will, which has incurred great indebtedness at the Federal command, and which exists only through the Federal pleasure.

In opposing this measure, which is so full of selfishness and threatenings, we have not gone beyond the limits of this building. We have not canvassed locality organizations nor have we sought to inspire the voice of the people. The holder of unimproved real estate, the imaginary engineer, the financier who never financed outside of his own pocket, the builder and operator of railroads who insists upon earning his livelihood in some other way, the man who lectures on municipal ideals but who can not successfully run his own petty business, the "leaders" of uncounted and unled thousands, the megaphones through which are transformed and distorted and magnified what in the original whisper may have been public sentiment—these, and others nearly related, we have left for the purposes of the Old Dominion Company.

It would have been easy enough to bring here business and professional men in large number to protest against the plans of those who seek unfair invasion, but we have not deemed such procedure necessary. We rest not merely upon what we have of law, in letter and spirit, but also, and more heavily, upon the equity of our cause—"that exact rule of righteousness or justice which is to be observed between man and man." We and our invested millions are in your hands. The power of Congress within the Federal District is supreme. You may uphold and encourage or dismember and destroy the creatures of your own creation, but that you will deliberately crush those who have served you faithfully is not even imagined by any of us.

If the Old Dominion Company transfers its passengers at the northern end of the Aqueduct Bridge the public will be served and no injury will be done any interest. If you permit the Old Dominion Company to work its will then there must ensue all manner of confusion, the destruction of a sound principle framed by Congress, and great financial loss.

Is the issue clearly defined? Is there doubt as to the way in which you should go?

"All things whatsoever ye would that men should do to you, do ye even so to them."

The CHAIRMAN. General, there is just one question I wish to ask before you take your seat. You speak of the railroads of this District being the creatures of Congress.

Mr. HARRIES. Yes.

The CHAIRMAN. In glancing at the several charters yesterday I discovered that in the year 1888, if I remember correctly, there were some five or six charters granted to different railroad corporations. Have you any knowledge as to whether capitalists appealed to Congress to permit the building of those roads, or whether Congress appealed to them to construct the roads?

Mr. HARRIES. I have no knowledge, just broadly. If I were to look at those charters, I might know more about it. But the real point to be considered, I think, is that Congress should never grant a charter on the appeal of an investor. It is not my purpose, and I am sure I will not be misunderstood, to suggest what the committee could do and really ought to do, but, if I may venture to express an opinion, it ought to say "we should have a line here, we should have a line there," and then require its construction, and turn a deaf ear to all the demands of capitalists of some other roads.

STATEMENT OF JOHN RIDOUT.

Mr. RIDOUT. Mr. Chairman and gentlemen, we have all, of course, been very much impressed with the unselfish appeals which have been made by the representatives of the two existing railroad systems. I have been very much interested to observe how utterly unselfish their attitudes, respectively, are. Reduced to its last analysis, the contention of the gentlemen representing those two systems seems to be that by reason of the grant of certain privileges to each of those concerns, speaking of them, for convenience, as two corporate entities, for one of them represents a number of original corporations and the user of those privileges for a certain time, more or less wisely and with more or less of wise or unwise, useless or necessary, expenditure in their early history, there has grown up in favor of those systems a vested right or a system of vested rights greater in its power and superior in its control to the Congress of the United States.

I, of course, do not deem it worth while for a moment to antagonize that proposition in the broad sense in which it is evidently contended for here, and yet, if you eliminate that contention from what has been said by the two very intelligent gentlemen who have so interestingly spoken on this subject, you take the whole point out of their arguments.

It seems to me that the question to be considered by this committee is briefly this: Does the public welfare require the grant of this franchise on such lines as the committee, and ultimately Congress, may see fit? It does not make any difference whether or not timid invested millions see possible danger in the future. If that doctrine had been adhered to there would never have been any but the Capital Traction Company here, because the same argument that has been advanced by the gentleman who just preceded me would have been as effectively advanced against the creation of the various corporations now grouped together under the head of the Washington Traction and Electric Company.

Mr. Dunlop contended, as I understood him, that because there had been granted, forty years ago, a charter to the Washington and Georgetown Railroad Company, and because under that charter it had developed a very great prosperity in the operation of one of the most

valuable railroad franchises in this world, there had grown up in favor of that company such a right and such a vested right as might not be interfered with.

There is another side to that argument and that is this: It seems there are two answers to it. The first is that as a settled proposition of law time never runs against the sovereign, and no length of user could ever create in the beneficiary of the franchise a vested right by prescription or limitation.

In the second place, having had this valuable franchise uninterruptedly practically for forty years, they ought to be willing to allow the public welfare to be subserved, if necessary, by some invasion of it. I contend, however—and that subject has been fully discussed, and I ought not to take up the time of the committee with it—that the proposed legislation does not contemplate any such paralleling of existing systems as to interfere in reality with its enactment. But we are confronted by a singular inconsistency in the arguments of both of these gentlemen. They say in one breath that this enterprise never can succeed.

One gentleman who has spoken went so far as to say that so far as the city of Washington is concerned the road would never be constructed. If it is never going to succeed and never will be constructed, why this apprehension on their part? Does it not show, gentlemen, that these wise, intelligent business men know in the bottom of their hearts that there is a public need of this enterprise, and is not their apprehension due to the real belief on their part that the public will recognize the benefit of this proposed legislation and will avail itself of it, and therefore there may be some diversion of railroad fares from the pockets of the existing institutions?

Now, Congress has spoken in no uncertain voice on this subject, and has, I submit, established what may be termed a legislative policy in harmony with which the legislation now sought is asked. As early as 1894—on August 2, 1894—in an act entitled “An act to authorize the Metropolitan Railroad Company to change its motive power for the propulsion of the cars of said company,” by section 5 of that act the Metropolitan Railroad Company was required:

* * * Immediately to make reciprocal arrangements with the street railway companies whose lines now connect with its lines, and to furnish such facilities therefor as the public convenience may require. Upon the completion of the underground electric system provided for in this act, the said Metropolitan Railroad Company is hereby further authorized and required to enter into reciprocal trackage arrangements with connecting roads. The schedule and compensation shall be mutually agreed upon between the said Metropolitan Railroad Company and the companies with whose lines this line may connect; and in any case of failure to reach such mutual agreement, the matters in dispute shall be determined by the supreme court of the District of Columbia, upon petition filed by either company: *Provided*, That every street railway company in the District of Columbia whose lines connect or whose lines may hereafter connect with the lines of any other street railway company—

Gentlemen, you will observe how broad that language is—

That every street railway company in the District of Columbia whose lines connect, or whose lines may hereafter connect with the lines of any other street railway company is hereby subjected to the same requirements as to transfers and trackage arrangements, and upon similar conditions as in this section provided in the case of the Metropolitan Railroad Company and the lines connecting therewith.

There you have, nearly ten years ago, a legislative declaration that the trackage arrangement, against which so much protest is now made,

is the right thing, and that legislative view is corroborated by the experience and action of all the large cities of this country, as we all know.

Much of the objection to the trackage arrangement contemplated has been based upon the ground that it would be practically a free intrusion or invasion upon the rights of existing companies; but you will not have failed to notice that in this original legislation, as far back as 1894, and in the proposed legislation the rights of the existing systems are carefully guarded by the provision that the payment to be made for the privilege granted shall either be fixed by mutual agreement or by appropriate judicial proceeding.

What, after all, is asked here but that Congress shall exercise the well-known, thoroughly well-settled power of eminent domain? And, having found that the public welfare requires the proposed legislation, to say that so-called rights or privileges shall yield, in so far as may be necessary, to the public welfare upon the terms of just compensation, and that is amply provided for in the proposed legislation.

It is not proposed to run cars upon the tracks of existing companies and do so without making just compensation, but the whole exercise of the right is conditioned upon such a provision.

We have had recently a very powerful object lesson in regard to the views of Congress on this subject. Here were two great steam railroads entering into an enterprise which everybody favored, the elimination of grade crossings and the erection of the magnificent union station and the building of a viaduct; and it was stated that other roads might want to enter Washington, and that they, under proper restrictions, should be given the privilege to come over the existing tracks. The same argument was made by those steam railroads, but Congress did not heed it. Congress said that upon the terms of just compensation other roads may run over the viaduct, and required provision to be made for it. So it seems to me that the precedent has been established which may well be followed in the enactment of the proposed legislation.

Then there is a very interesting consideration. Something was said by Mr. Dunlop as to the history of the legislation which permits the Great Falls Company to come into the District of Columbia. Through reference to that legislation, which is to be found in the act approved on the 29th of January, 1903 (32 Stat. L., 781), by section 4 of that act it will be seen that the Great Falls and Old Dominion Company "is authorized to lay upon the bridge and across M street and in Thirty-sixth street, to such point south of Prospect street as the Commissioners may approve, a single electric-railway track, with the necessary switches and turn-outs."

That would seem to show that Mr. Dunlop had overlooked the exact terms of the legislation, because, you will observe, there is no mention of Thirty-fifth street, nor any limitation concerning the use of Thirty-fifth street; but the whole legislation is in harmony with what is now asked, namely, that there shall be effect given to the existing provision of the act of 1894 referring to railroads thereafter to be constructed, and providing that trackage facilities shall be given them where they connect with existing lines. Then, also, you should consider that when the road comes across the bridge it will be built into Thirty-sixth street, so that it comes practically in juxtaposition with the existing Capital Traction Company's tracks; so that it comes very closely, if

not exactly, within the terms of existing legislation, which would be operative upon it.

I do not think the committee wants to have its time wasted with any attempt to go into personal considerations, and I shall not undertake to reply to that class of argument further than to say this: that a great master of human nature expressed the whole idea on the subject many years ago, that under certain circumstances "the galled jade would wince;" and whenever you see personalities resorted to you find an indication, a very strong indication, of the weakness of the general and legal argument.

Criticism has been made about the broad terms of the proposed legislation. Senator Butler stated to the committee that so far as the general clause providing for the exercise here of rights granted by the original charter of the Great Falls Company was concerned it was perfectly agreeable to the company to have that eliminated, or limited so as to read "So far as not inconsistent with the laws of the District of Columbia;" and it has been already suggested by him that in lieu of the provision of which criticism has been made concerning the exercise by this company of rights granted by legislation to other companies here this language might be used, making it section 22 at the end of the bill:

That any corporation authorized to build, maintain, or operate a street railway in the District of Columbia may have and exercise any and every of the rights, powers and privileges conferred by general and special acts of Congress upon any and every other corporation authorized to build, maintain, or operate a street railway in the District of Columbia.

At the bottom of that line this wise language appears:

That no one of these companies shall have any greater rights than any other, and that all shall be placed upon the same footing precisely.

Of course, it can not be successfully contended that any one company here should have any special privileges which any other company might not exercise, and the tendency of this legislation and the legal effect of it, as is obvious, would be to place them all upon the same footing.

There has been a great deal said about the willingness of the existing companies to extend to meet public demand. I am one of the oldest inhabitants, I suppose, in the meaning of the requirements of the Association for the Oldest Inhabitants, having been here since 1864, but it has not yet come under my observation that any extension has ever been made except where the company expected it would pay. Indeed, the gentlemen were frank to say that they were ready to make the extension when they thought the public business--the revenue--would justify it.

Looking at the tracks now down and not operated in this city by some of the systems, we are justified in assuming that there will be no extension; indeed, General Harries expressed it very aptly when he said at the close of his remarks that his company was willing to sit still and wait until Congress made them act.

Instead of having the situation left in that way, and allowing these two existing systems to sit still and wait until they see fit to move, or until Congress moves them, it is suggested that there be legislation which shall meet the needs which the committee finds. After all, it is committed to you gentlemen to decide what the need is, and it is for you to say whether you find the necessity. If you find the necessity,

then claims of privilege on the part of sensitive capitalists will not interfere, I submit, for a moment.

I can speak to some extent from recollection, and a great many of those present can do so—in this committee there are certainly some Senators who can do so—on the subject of self-propelled electric vehicles. The Washington Traction and Electric Company had a very severe experience in that direction, first with electric storage-battery cars and then with compressed-air motive power. While undoubtedly a storage battery of light weight and great endurance is the beautiful vision which may be realized in the future—which inventors in electrical lines may see in the ultimate future—it would be extremely unwise in the light of past experience for this committee to depend upon the solution of that difficult problem and to defer action and relief to the public until the hopes of the inventors, proverbially unreliable, shall have been realized.

Mr. HARRIES. I do not like to interrupt Mr. Ridout, who is a very delightful gentleman and a good friend, but the motor to which I had reference is not only ready for work, not only being turned out in the factory, but is operated to-day in six cities and has been operating, and operating successfully, in Chicago for a year and a half on the public road, carrying passengers at 5 cents a head, and doing it for eighteen hours a day.

Mr. RIDOUT. Is it an electric storage battery?

Mr. HARRIES. I have not given the name or the character of the motor.

Senator DUBOIS. Let me ask you a question here. I know something about this, because I have lived in that section of the city. Are you providing to give better accommodations on Sixteenth street, where that old herdic line runs?

Mr. HARRIES. We are not running the herdic line.

Senator DUBOIS. With those automobiles, I mean.

Mr. HARRIES. That would be entirely—

Senator DUBOIS. I ask for information merely.

Mr. HARRIES. Yes. We would not care, Senator, to go into the territory of an existing company, no matter what the character of its operation may be, and ruin even its small investment. We would rather take a new route than to smash that company, and that would be the result, of course.

Years ago that company, as a favor—and I never understood why it was done, as it was a very foolish thing to do—was given some transfer privileges with our F street line, and it has been a trouble to us ever since.

Mr. DUNLOP. I think I can answer that question satisfactorily to the committee. There is an advertisement now in the local papers for a local company to run electric motors on Sixteenth street and out F street, and—

The CHAIRMAN. Yes, and last year we had an advertisement that we would have a flying machine down the Potomac. [Laughter.]

Mr. RIDOUT. We not only had an advertisement, but we had—

Mr. HARRIES. I want to say that if the proposition of Mr. Ridout is to run a line of flying machines, we have no objection. [Laughter.]

Mr. RIDOUT. If that were my suggestion it would not be an interference, it would not invade your territory. [Laughter.]

In regard to that automobile line, there was but one machine, and

that failed. We all know, every one of us, as practical men, that there is a vast field to be covered before you get a perfect electric motor.

Mr. HARRIES. I wish the gentleman would not say "electric motor," because I have not said "electric" once.

Mr. RIDOUT. I am trying to "smoke you out," and find out what it is. [Laughter.]

Mr. HARRIES. I am still untouched by the smoke. .

Mr. RIDOUT. Your company has had considerable experience with the smoke laws, and therefore you are not very easily smoked out. [Laughter.]

Gentlemen, the whole thing in a nutshell, I submit, has already been stated, and it remains for this committee to follow General Harries's very eloquent opening sentence: "Look at the cause, and at nothing else."

Senator GAMBLE. Just one word. In regard to section 5 of the act of August 2, 1894, would a strict construction of that proviso include corporations hereafter incorporated and entering the District of Columbia? The provision is: "*Provided*, That every street railway company in the District of Columbia whose lines connect or whose lines may hereafter connect with the lines of any other street railway company is hereby subjected to the same requirements as to transfers."

Mr. RIDOUT. If the Senator will permit me, I think it undoubtedly covers that point. Of course, I am not competent in the interpretation of it, but I remember the occasion of that legislation, and the language used was designedly so used. Instead of saying "street railway incorporated in the District of Columbia," the language was used "street railway in the District of Columbia," because it was then contemplated that certain lines in Maryland, to be constructed through Maryland, were to come into Washington.

Senator GAMBLE. Ordinarily, I would say that that proviso would be "street railway companies already organized or hereafter organized," if it were to apply to the future. I simply call your attention to that.

Mr. RIDOUT. There is force in the criticism made by the Senator; but, assuming that to be so, it simply demonstrates that all that is necessary in order to give effect to that legislative declaration is to have a little supplementary legislation.

The CHAIRMAN. Mr. Dunlop will be heard for a few minutes.

ADDITIONAL STATEMENT OF GEORGE T. DUNLOP.

Mr. DUNLOP. Mr. Chairman and gentlemen of the committee, I approach what I have to say very gingerly, after listening to the argument of a fine lawyer like Mr. Ridout. I will say, however, right at the beginning, while it is fresh in the minds of the committee, in regard to that bill which was passed creating this charter across the Aqueduct Bridge last year, that when that bill was framed to be introduced in Congress it was gone over by Mr. Miller, who was then the president of this Great Falls and Old Dominion Railroad, and Mr. Jewell, who was then the treasurer of that company, in the office of the Capital Traction Company, while they were sitting at my desk. They sought me to go over the bill as they had it framed, to see whether it was in accordance with the wishes of the Capital Traction Company or would meet any opposition from that company.

The very point that Mr. Ridout has discussed in this law, that Senator Dillingham has brought to his attention, was discussed. That law was on the statute books then. It was read and we went over it. I am not a lawyer, and an astute one like Mr. Ridout, yet having in view the protection of the interests of the Capital Traction Company, from a common-sense, business standpoint, and having the law right before me at the time, the question was discussed and they agreed to come over into the end of Thirty-sixth street. I want to say now that if I used the words "Thirty-fifth street" it was an error. I noticed in the printed report of my remarks before the committee that "Thirty-fifth street" was used in every instance. That, of course the committee understands, was either a mistake on my part or on the part of the printer. Thirty-sixth street is the language of that charter.

If was gone over with the president of the road and with the treasurer of the road, and they left the office of the Capital Traction Company with the avowed purpose of framing that bill in accordance with the understanding with my company. They did in good faith frame the bill in accordance with that understanding, that it was to end in Thirty-sixth street, where there is room enough to shunt the cars, one being loaded and the other departing. There is plenty of room there for that purpose.

They introduced that bill in Congress, and there was no opposition ever displayed before the committee, as the chairman has well said here. Not a member of the committee ever was spoken to on the subject.

I did speak to some other members of the House of Representatives and some Senators. I was asked by some of the members of both Houses whether the Capital Traction Company had any opposition to it. Our position was explained, and that was the end of the matter.

The bill was passed, and we supposed in good faith. They do not, under that bill, connect with our road, and you gentlemen will see how the other law was framed, and I knew about that when it was framed. It says "connect," and this road under the law does not make any physical connection with the tracks of the Capital Traction Company. To approach a road is not to "connect" with it. I think you will all agree with me on that. It has no right to do that. But it does come to that station. I do not wish to go into that question. It is all in print now, and the committee can read it.

Leaving that point now, gentlemen, I want to take up another very practical and pertinent matter in connection with this whole subject which I did not reach the other day. I thought I saw that the committee was being wearied with what I had said, and I hoped that I might have the opportunity to say this. In the practical operation of a street railway we all know that the old saying applies that "the chain is no stronger than the weakest link in it."

This charter gives a right to that company to come over the Aqueeduct Bridge on a single track and land its passengers alongside of our station in the end of Thirty-sixth street. No car can be operated over that bridge from the Virginia side to the end of that line on the District side under five minutes. There is no provision for the cars passing anywhere on the bridge, and therefore that means the maximum schedule of ten minutes. That is what they would get over that bridge; and you can not pass cars over more rapidly under existing conditions.

Now, suppose they were to run—suppose you gentlemen were to even consider that question, and I do not believe you will when you come down to the end of this investigation—they should be granted the right to go over the Capital Traction Company's tracks on M street, and through the city, and so on. What service would they give? They could not possibly, if the city grew to 10,000,000 people and the conditions remained the same at that point, and Virginia had a hundred millions that wanted to come over there they could not run faster than a car in ten minutes. You can not run the Potomac River through a quill.

The people who would like to have this road, if there are any, on M street or L street or any other street going to the union passenger station which is to be built would not have over the proposed road a faster schedule than ten minutes. We will give them, we are giving them, twenty out of twenty-four hours a three-minute schedule, and in the mornings and evenings, what we railroad people call the "office hours," a faster schedule, and that is what the Virginians will get, and the inception of this whole bill was to accommodate the people from Virginia.

We have offered, as you all know, a free transfer to those people. We will take them every three minutes, and twenty hours in the day.

Most of them are officeholders and they come mornings and evenings. During the day between those "office hours" there are very few of them who put in an appearance. Generally they are engaged in cultivating their lands.

If it is true, and I think I make it plain, that they can not get better than a ten-minute service, what accommodation would that be to them better than the Capital Traction offer?

Senator GAMBLE. If conditions should change, and it should become necessary for a more rapid transportation schedule to be arranged, could not Congress limit that?

Mr. DUNLOP. I said, Senator, that I confined myself to the present conditions. Congress has just passed the law giving them certain rights, and it is expressed in the bill, and they are asking for a road to extend that. I can not speak now for the future.

Now, the people in Virginia have been offered by the Capital Traction Company all the convenience they have ever asked for. The beginning of this bill—the inception of this bill—was, as I said last Thursday, largely through people interested in the Capital Traction Company—large stockholders. They went to the legislature, or, at any rate the law was passed by the Virginia legislature, authorizing the charter of that company. They had approached the Capital Traction Company and had argued that question with me before the charter was granted, asking the Capital Traction Company to build the line. They were refused. We had no charter over there and we did not desire to go outside of the District of Columbia. We do not desire it now, and I do not think there is any law or power in Congress to make us go outside of the District of Columbia.

It was said to them by the Capital Traction Company: "We will give you every facility for reaching every part of the city that our lines traverse." That seemed very satisfactory. I believe it was satisfactory to the then promoters of that road. Shortly afterwards they sold out, and it got into the hands of different people. I have not mentioned any names, and I did not mention any last Thursday. I

have in mind a gentleman who is a friend of mine; I certainly am of his—a good friend. There has never been a word of difference between us and I do not think he would have taken exception to anything that I said on the subject. I do not think anybody's relations were closer than mine with him on subjects of that kind. I had no idea of offending him, and I do not believe that this committee construed what I had to say on the subject as so intended.

I wish to go a little further into this matter, though, without mentioning any names, because of the question asked by Senator Hansbrough on page 27 of the hearing of last Thursday. This is my statement:

"Here is a road from Great Falls, meandering around Washington City, and going out into Bladensburg," and so on. I will not go over it in detail.

It would not pay, and they do not intend to build a foot of that. The bill is not got up for that purpose. That is not the purpose of the bill. The gentlemen interested in this bill, if reported correctly to me and to our company, are not the kind of men to build railroads for the accommodation of the public alone. That is not the spirit behind this bill.

General Harries, without saying a word to me, has enlarged on that by telling what a certain gentleman, without name, told him. You will all remember that.

The CHAIRMAN. That would equally apply to every other man on the face of the earth, would it not?

Mr. DUNLOP. I apprehend that it would.

The CHAIRMAN. You do not build railroads for the accommodation of the public alone?

Mr. DUNLOP. Certainly not. I was just looking at it from a common-sense view.

The CHAIRMAN. Yes.

Mr. DUNLOP. And I expressed it in that way, without the intention of reflecting upon anyone.

The CHAIRMAN. Certainly.

Mr. DUNLOP. I thought the committee would receive it in that way.

I will read this also from page 27 of the hearing of last Thursday:

Senator HANSBROUGH. What is the purpose? You have suggested it. I think we ought to know it if you have anything in your mind on the subject.

Mr. DUNLOP. I do not care to express myself upon that point until further developments. But we have a right to surmise, and I have a right, I think, to make a surmise of it.

Senator HANSBROUGH. Unless you will agree to communicate it to us in private we shall not let you off. We should like to have you tell us now. I think we have a right to know.

Mr. DUNLOP. I never say anything in private that I would not say in public.

Senator HANSBROUGH. Then we would like to have it in public.

Now, gentlemen, you can see the position in which Senator Hansbrough placed me, without intending to do so, at that time. He pressed me to give this answer:

Mr. DUNLOP. That is my principle and that is my mode of doing business. I say I believe—mark you, it is my opinion—that it is to be built for stock and bond jobbing purposes.

Now, gentlemen, I had not the slightest intention of mentioning the name. We were dealing here with the collection of men supposed to be the men who were asking for the public charter. I mentioned no name. As far as I know all of the gentlemen that I have heard of are friends of mine. Certainly I am of theirs.

This company, in my opinion, will be in the same situation as all other suburban railroads have been, except one that I mentioned the

other day, and that happened to fall in the hands of the Capital Traction Company in time, before it reached the stage of a receivership, although it was losing \$40,000 a year. All of them have gone there, and I predict that this one will go there, and that is the basis of my surmise that the gentlemen who have been active in getting this charter will not be in it when that occurs. General Harries has stated the same thing, practically. The expectation is to get a charter through this Congress or some Congress and hold that over the existing companies here, and have the Capital Traction Company do what it never wished to do—buy out that suburban road. Of course in that event we would have to father its bonds and its stock. That is the explanation.

Senator MALLORY. That is based entirely on—

Mr. DUNLOP. That is based entirely on my belief.

Senator MALLORY. On your experience and not from any knowledge that you have.

Mr. DUNLOP. No, sir; I disclaim having any knowledge of that, sir.

The CHAIRMAN. Of course, Mr. Dunlop, there would be no reason why you should take that road unless you wanted to.

Mr. DUNLOP. No, sir; and I say positively and frankly now that although the charter may be granted, if you should see fit to do it, it will never be bought by the Capital Traction Company at any price. We will transfer with them, we will take their passengers all through our system, which will serve every purpose for every Virginian, and that is all they want. They are not interested. Those Virginians are not going to put any money in it, or very little. They have all gotten out now, practically, and all of them will be out. However, if they come to build that road, which I think they will, and come over that bridge and transfer to our company, their passengers will be delivered all over the city without an additional fare.

It is a very heavy load for us to carry; it is unfair; when they go back we will give them a transfer, and they carry them over the bridge for a half mile, and then they begin to rake in the nickels, you can rest assured of that. [Laughter.]

I said at first that we ought to have an equitable transfer arrangement. I have said it, and still stick to it. The chairman of this committee has said that he thought we were very liberal with our transfer offers. That is true, and I think he meant it in good faith, and I want to say to him probably some things that he did not know, for he was not in the Senate at the time, that that offer has been open to every suburban road that has ever been built out of Washington or the District of Columbia that connected or came near the Capital Traction Company or the Washington and Georgetown Railroad Company's lines. It was done here with the Capital Railway Company, built over to Congress Heights. It was used by that company until they sold out to the Metropolitan and made connection with them, and it was no longer needed.

Transfers were printed with the Capital Railway on them for use at the Navy-Yard gate. It was offered to the Tenallytown road. It was offered to the Brightwood road, and the offer is still open to any suburban road. We have always taken the ground that if they could stand it we would. None of them, after the first blush, thought that they could stand it, and I do not think they could. What has been the result? Every one of them has gone into the hands of receivers

except those that are hanging ready to go there now, and would have been there long ago if these New York people had not taken them up.

I think that is all I have to say on the subject.

The CHAIRMAN. Mr. Goldsborough will close the hearing. Before Mr. Goldsborough commences, however, I want to say that I think the other members of the committee join with me in felicitating all the parties in interest upon the fact that we have had a very pleasant hearing. The committee have been supplied with a good deal of light on this subject, and after the hearing closes a subcommittee of this committee will take the matter up for further consideration.

Mr. HACKETT. Will you allow me to interrupt one moment, Mr. Chairman, in order to get it on the record, that the most numerous signed petition has not been mentioned, and that is the petition of residents of M street, from one end to the other, having about 400 signatures, I think.

Senator MALLORY. Do you think that your road would consent to run a line in a north-and-south direction through East Washington, from Seventh and U streets, say? I would like to ask you that question.

Mr. DUNLOP. I think if you will read my statement made on last Thursday you will find that we have said that, and we will live up to it. We have said that we would build all necessary extensions. There was nothing, not a word, said about a possible extension, as was said by some gentleman here to mislead you.

Senator GAMBLE. Who would be the parties to determine the necessity?

Mr. DUNLOP. Congress, when it gives us the charter for it. We will come here and ask for the charter. We can not build a foot of it without coming before you gentlemen. We have to come here and get that right, and anybody can bring us here. They can bring us up here and make us discuss it, and you decide whether we should build it or not; whether there is a necessity for it.

Senator MALLORY. What do you think yourself? I would like to ask your personal opinion on that subject, as to whether it is advisable and whether it would be profitable?

Mr. DUNLOP. On what particular?

Senator MALLORY. The extension of your line.

Mr. DUNLOP. I will go back a little—

Senator MALLORY (continuing). North and south, in the eastern part of the city.

Mr. DUNLOP. It has been said here by several persons that they thought we ought to build from Seventh street and Florida avenue. It is true that the Rock Creek Railway had a charter right to North Capitol street. It expired before it fell into the hands of the Capital Traction Company, as it is now, and therefore we never had any right there.

Senator MALLORY. I am not asking you about that, but for your personal opinion. My question could be answered yes or no.

Mr. DUNLOP. I am coming around to that. I think I will answer your question. We are perfectly willing, and we are contemplating at the proper time—and there are a good many things that have to occur with a street-railway manager that can not all be done in a day, or in a minute, or in a year—we are contemplating extending our lines on from Seventh and U streets or Florida avenue to serve that purpose.

I do not care to state what street the extension is to be made upon now because the committee when the proper time comes will know about that, and if they will excuse me from stating that now I think it would be good policy at present.

The CHAIRMAN. Certainly.

Mr. DUNLOP. But the union station has made it obligatory, the Capital Traction Company being located where it is, to reach it on the shortest possible lines from the great northwest. It will serve the Seventh street line, the Fourteenth street line, the Rock Creek line, the Chevy Chase line, directly across that part of the city, and go to this great point that everybody wants to reach, the union station.

Senator MALLORY. Mr. Dunlop, you are accepted, I believe, in the city here as being a very high authority on street-railway matters.

Mr. DUNLOP. I am sorry to say that I do not believe that myself. [Laughter.]

Senator MALLORY. Well, others do. You have heard the testimony here, or, rather, the statement of people living in East Washington. Now, laying aside your connection with any particular road, I would like to ask if you are willing to state, as a railroad expert, whether a line running north and south or in a northerly and southerly direction (I will not say especially north and south) through the eastern portion of the city of Washington is necessary and desirable, and whether it would pay?

Mr. DUNLOP. I think it would be very unprofitable, but I think the people should be served now. I say that we are already serving the southernmost portion of that. General Harries's company is serving what is practically the middle portion of that, and we have, mark you, no lines east of the steam railroads that will approach this city northeast of the Capitol. The other company has some four or five lines. We believe that we ought not to enter into that territory. I want to be frank about it, because the other company is there, and it ought to do it, and no doubt will, I think. I should, if I had the management of it, extend lines so as to bring those people down to the central part of the city, or carry them practically wherever they want to go. We have not any disposition to invade their territory, and we do not like it whenever they show a disposition to invade ours, or to injure our company; and we will never invade theirs if we can get around any other way. Does that answer your question?

Senator MALLORY. Yes.

Mr. RIDOUT. I did not hear the Senator say whether that answered his question or not; but to some of us it hardly seems that it does. It was stated by Mr. Dunlop that his willingness to extend was not dependent upon revenue. I find on page 28 of the record that he made this statement:

There is no necessity for any other road. If there is, the Capital Traction Company to-day stands ready to put in any extension in any direction in this city where it can be shown that there is absolutely a need of it—sufficient to warrant the expenditure.

That, I think, justifies my contention that the revenue was the test of extension.

Mr. DUNLOP. I say to-day that I leave it in the hands of the committee when it comes before them to say whether an extension is necessary.

ADDITIONAL STATEMENT OF RICHARD H. GOLDSBOROUGH.

Mr. GOLDSBOROUGH. Mr. Chairman, the principal question before you has been pretty well thrashed out, and that is whether or not there is a public necessity for a cross-town railroad in the city of Washington.

I think I may fairly say that the consensus of opinion here of all the parties who have appeared here who are not in interest has been that there is a necessity for such a road. Further, if we are to believe what intelligent citizens have stated, there is a necessity in certain directions for more than one cross-town road.

The gentlemen here from Eckington state that the Capital Traction Company might wisely be permitted, authorized, instructed, directed, or required to build an extension of the U street line along Florida avenue to Tenth street, and from Tenth street across to the Anacostia River.

I would say that, so far as we are concerned, we neither have nor have a right to have any objection whatever to that proposition. Personally, I believe that it will serve people, and a great many people that will not be served by the bill as drawn or the route as defined in the line which we are now considering. But it will not answer the purposes which are sought to be subserved, of a public nature, by this bill.

I will say to my friend, Mr. Dunlop, with all due deference to his superior experience, skill, and ability—universally admitted by all classes of citizens in the District of Columbia, whether they have railroad interests or not—that his proposition to transfer passengers at the Aqueduct Bridge is not at all responsive to the scope of this bill. So far as the people of Virginia are concerned, many of them want to reach sections not traversed by his road, and they want to go straight across town. They want to go farther to the north, or they want to go to the northeast, and to merely transfer them at the bridge would subject them to loss of time, to a long line of travel, and to the additional expense of another fare.

I have in my hand before me a map which I think clearly defines the public purpose that is involved in this bill [exhibiting map to the committee]. Here is the Aqueduct Bridge, and here is M street running due east from the Aqueduct Bridge, across the city. This is New Jersey avenue, and the route proposed in the bill passes down New Jersey avenue and across to the Bladensburg road. This is a north-and-east line, as proposed by the bill, across to the Anacostia River or to the navy-yard, so that anyone at the navy-yard who wanted to go to the north or northeast or northwest section of the city travels from there directly north and thence west and on through the city, and may be transferred by any one of eight or ten distinct north-and-south lines to any portion of the great northwest.

The citizens out there in the northeast are not altogether satisfied with the route as defined in the bill. They have been to us and stated, "We think you ought to go to Florida avenue; you ought to go on out M street and from Florida avenue across." That is this line [indicating on map]; and I will say for the company that it is perfectly willing, if the committee should think proper in perfecting this bill, to extend a branch line from New Jersey avenue east straight out M street to Florida avenue, as laid down on this map.

Now, if the committee please, that will satisfy, I think, and meet all the requirements of the northeast section.

I want to say to the committee that a mere road running north and south would not at all answer the purposes or give the transportation facilities that those people want, and that they ought to have, because in order to avail themselves of the existing systems in the northwest they need a connecting link. Should there be one built across town by an independent company, and it have no northwest connection, they would necessarily have to go by devious ways around to and pay more than one fare to get into the northwest.

Let me show the committee how this would operate, because it answers another point. If there is a public necessity for this road, a public need for it, it needs must pay. One answer covers both questions, because there can be no public necessity for it unless there is a public waiting and willing to ride on it. If there is to be only a few passengers here and there, why it is nonsense to charter a road to carry them. If there is a public necessity—if there are people to ride who want to ride and who want to be given the facilities to ride, the road is bound to be profitable, if there is a proper service and the company is reasonably capitalized.

Now, let us see whether it will or not. But I want to say another thing. If it is not profitable, if nobody rides on it, why, our friends of the existing lines are not damnified. If we carry no passengers, their territory is not invaded [exhibiting map]. In going across from Georgetown, after striking Rock Creek, the first crossing we reach is here [indicating]. A cross-town line must needs be a transfer line. It is nothing without it. No one would dream, as General Harries properly said, of building a cross-town line without transfers. It gives no convenience without it. Let us see how it would work here. Let us see if it would injure the corporation which he so ably represents here.

The first transferring point we would strike would be Connecticut avenue. A cross-town line on this route will carry great numbers of people from the south.

There are already several railroads coming to the Aqueduct Bridge. There is more than one suburban road across the Aqueduct Bridge that is paying, notwithstanding the opinion of our friends that suburban roads are only cats and dogs.

Examine the statement of the Mt. Vernon road for the last year, for example, not only of dividends, but of large amounts carried to the surplus; even when read in comparison with the statement made by the great Capital Traction Company, which has no superiors and few, if any, equals as a well-managed institution, it makes a fine showing.

To return to the transfer station at Connecticut avenue and M street: I can see how Mr. Dunlop and the Capital Traction people may have reason to fear diversion of trade by this road. I can see that. But I fail to see where the anxiety of the Washington Traction and Electric people comes in.

Let us look at it. We strike Connecticut avenue loaded with passengers. At the corner of M and Connecticut avenue, if this bill becomes a law, there will be crowds of people to transfer from one of these roads to the other; and on good days, when the weather is good, and when all of this beautiful country to the south of us—in Virginia—is opened, with a beautiful outing place at the Great Falls, it

will tax the capacity of this road for a long time to come to be able to carry the people.

I have had some experience with a suburban road. I have in the past had some experience in the handling of numbers of people seeking an outing, and I know how they will flock where they think they can get good service and a pleasant ride into the country, more particularly in certain seasons, notably in the summer season of the year. But here is an attraction all the year round, and there will be great numbers of passengers. Now, as it stands to-day, the Washington Traction and Electric Railroad does not get a single passenger that crosses over the Aqueduct Bridge—

Mr. DUNLOP. You are mistaken about that. You are not well informed on that.

Mr. GOLDSBOROUGH. Where do they get them?

Mr. DUNLOP. They get a great many passengers to and from. The way is opened there, right up the steps, and I happen to see it, to our great sorrow. [Laughter.]

Mr. GOLDSBOROUGH. By climbing 100 or 150 feet up the steps, which some of them are willing to do—one here and there goes over to the other road, perhaps; but here will be a great body of people coming in. When they come to that road they will be transferred to the Washington Traction road, and they will go down town to their various destinations, to points on F and G streets, for example, where they are not served by the Capital Traction road. They will transfer there in order to get into the business section of the city, and the Washington Traction system gets the fare, which it would otherwise never have received.

Now, then, go on a little farther and you come to the Fourteenth street crossing [indicating on map]. What would happen there? There is a large population to the north and the northwest, at Chevy Chase, and all through that Eighteenth street region and the Cincinnati street region—all that beautifully developed country up Fourteenth street, where there is a magnificent modern city to-day. When those people want to reach the depot, and take the Capital Traction cars to do it and get down to the Thomas circle crossing, what will they do? Do you suppose that they will go all the way down to the Avenue and around Robin Hood's barn to get there? Why, no. They will transfer and go right straight over to the depot, which will be within sight, practically within a stone's throw.

That sort of thing will happen all the way across. Now, then, the remaining question is, conceding that this road would be advantageous to the people, would it be unfair to existing lines to authorize this company to build it?

Senator DUBOIS. I do not think that the committee ought to be compelled to determine how much a road is going to pay, or whether it would pay at all or not. These gentlemen have said that this road will not be built. What have you to say about that? They say that they do not intend to build it; that it is not their object at all. They both state that. I do not think that we should hear arguments as to whether a road would pay, or how much it would pay. I do not think that concerns us. I think that that was a very pertinent statement by both of these gentlemen (Mr. Dunlop and Mr. Harries), that was made with great vigor, that these people do not intend to build this road, and they will not build it.

Mr. GOLDSBOROUGH. I will answer that, Senator. I have already answered it, on Thursday. I say—as an officer of the road—that it will put up any forfeit that the committee may require to build this road in first-class style, and in a first-class way, up to date in every particular, within the time limited by this bill if this charter is granted.

I repeat again, however, if the road is not to be built these gentlemen will not be injured. It is the intention of the parties who own this franchise, or the Virginia end of it, to construct this road. They have already expended and put up \$46,000 with the Commissioners to pay for the extension across the bridge, and they are already engaged in constructing the road. There can be no doubt of it whatever, and if the committee has any doubt upon the subject it is an easy solution to make any requirement, no matter how drastic the committee may think proper, and insert it into this bill, that the company shall put up such forfeit as the committee thinks proper.

I do not propose to say anything further, then, as to whether the road will pay. I only mentioned it because of the correlation of the two propositions. One was that if there was a public necessity for it it would pay, and the other was that if there was no public necessity for it, why, as a matter of course, the franchise ought not to be granted.

Now as to this route: If a route is to be adopted, if a cross-town road is needed, it is needed in a central position. I do not mean to say that a cross-town line farther north is not needed at P street, as General Harries has claimed, or at U street, as others have claimed. I make no denial whatever of that proposition, but a cross-town line here is needed, and I believe that if the railway interests were committed to one corporation and it was a legalized monopoly, and my friend Mr. Dunlop was at the head of it, it would be built right on this line. It would be more economical to carry these people straight across from one side to the other by a straight line, saving them time, and not only saving them time, but saving the company the expense of carrying them sometimes 2 or 3 miles farther than necessary.

If the line is to be built, I want to say now as to the route which has been chosen that it is the logical route. One of the letters that was read to you this morning—merely the address was read to you this morning—was signed by Mr. Bell and others connected with the only, strictly speaking, first-class building that I know of on M street except the new apartment house at the corner of M and Connecticut avenue, and that is the Gardiner Hubbard Memorial Association, which has a large frontage on M street and on Sixteenth street. The gentlemen who signed it struck the nail upon the head when they said that this was the logical location and that it was in the public interest that the road should be built there.

My friend Colonel McKee and others who are interested in property in the immediate vicinity of these crossings have been here, and they have made very able and some of them very ingenious arguments intended to satisfy the minds of the committee that private rights would be injured to such a gross degree that even the public interest ought not to override them in the enactment of this bill.

Mr. Chairman, there is no street in the northwest better suited in every way for a cross-town line than M street. Apart from a few buildings at the corner of Connecticut avenue, on each side of the square, and at Fourteenth street, there is not a foot of ground on M

street from one end of the line to the other the value of which would not be doubled at least by the enactment of this bill.

My friend Colonel McKee in his able letter to the Commissioners, says that nine-tenths of the street is improved by residences of the first or second class. I have been over it carefully three times within the last week, and I say here and now, and I will rest this case upon it, that one-third of all the residences on M street, from Rock Creek Bridge to Thomas circle, are either frame or brick shanties—there are over 100 of them—and some of them in a condition so disreputable that their existence there is a disgrace to the city of Washington.

Take the square immediately east of Connecticut avenue—that is, M street from Connecticut avenue to Seventeenth street—there are some very nice houses. When you get beyond that you are in the colored section, where the colored church is. The gentleman who has addressed you here from that section is the pastor of one of those churches to-day. I do not mean to say that there is anything discreditable in that, but surely it is not an evidence of a class of improvements there that would be injured by a first-class double-track electric railway.

Mr. HACKETT. You do not agree with the Commissioners, then.

Mr. GOLDSBOROUGH. Let us look at the facts. On the corner of Sixteenth street every house is a frame house except the Gardiner-Hubbard Memorial. On the corner of Seventeenth street and M street, and in the immediate neighborhood there, within 200 feet, there are at least 30 frame shanties and not one brick house.

Mr. Chairman, universal experience has shown that the construction of a first-class double-track railway has never injured anybody in the city of Washington.

Mr. HACKETT. I do not like to interrupt you, but will you not please describe to these gentlemen of the committee the condition of M street from Thomas circle east, and speak of the character of the residences there?

Mr. GOLDSBOROUGH. Yes. It is very much better.

Mr. HACKETT. It is gratifying to know that, at least.

Mr. GOLDSBOROUGH. I do not want to be misunderstood. There are plenty of nice people; there are plenty of good houses; there are plenty of people there who are entitled to every possible consideration; but I am talking now about dollars and cents; about the pecuniary damage with which they are threatened. There is not, and the gentleman knows it, one single house of the strictly speaking first class, as we know it and speak of it here in Washington, on that street.

Mr. HACKETT. On M street?

Mr. GOLDSBOROUGH. On M street.

Mr. HACKETT. I do not care to discuss that. I will let the remark go on the record.

Mr. GOLDSBOROUGH. I mean strictly speaking of the first class. There are plenty of good houses.

Mr. HACKETT. Your ideas of first class do not agree with those of a good many people, then.

Mr. GOLDSBOROUGH. The gentleman is perhaps more familiar than I am with it.

Mr. HACKETT. I live on M street and ought to know something about it.

Mr. GOLDSBOROUGH. I do not intend or mean to disparage it in any way—

Mr. HACKETT. Go on and abuse the street as much as you please.

The CHAIRMAN. Gentlemen, we must not enter into any controversy like that. The committee will investigate all these matters in detail.

Mr. GOLDSBOROUGH. Yes; the committee will go and see, and I will leave the settlement of this question with them. That section is already commercialized, as was well said here the other day. Why, on Connecticut avenue, looking south, I can stand on Colonel McKee's beautiful terraces and see at least twenty stores on the opposite side; almost every building represents a store. There are grocery stores, plumbers' stores, cigar stores, telegraph offices, millinery stores, "corn doctor's" stores, and grocery stores.

Mr. HACKETT. On what street?

Mr. GOLDSBOROUGH. On Connecticut avenue; all the way from Magruder's corner and M street. I am only showing the commercial character of the location there.

Mr. HACKETT. On Connecticut avenue, yes.

Mr. GOLDSBOROUGH. Now, another thing, and I am only going to say one word about it because time is pressing, and I do not want to detain the committee. I do not believe, as a matter of opinion, that there is a railroad engineer anywhere, who is impartial and disinterested, who would not say that if there is a corner on Connecticut avenue anywhere that is safe and that is desirable for a railroad crossing, it is the corner of M street and Connecticut avenue. Compare that with the corner of L street. That street is now 32 feet wide. Supposing you widen it to 40 feet. On the east of Connecticut avenue M street is more than 60 feet wide; that is to say, it embraces the roadway of Rhode Island avenue and M street. A thousand soldiers could stand comfortably there in that open area between the triangle formed by the conjunction of M street and Connecticut avenue. And across to the west there is a great open space where crowds can be disposed of and handled without the obstruction of public traffic. There is no safer or better crossing anywhere, and there is not one on Connecticut avenue comparable with it.

The CHAIRMAN. If it does not interrupt you, Mr. Goldsborough, I would like to have you address yourself for a moment to Thomas circle, as a good deal of objection has come to this committee concerning that circle and the crossing of it.

Senator DUBOIS. How would they get around it? How would they lay the track? I have been up there and looked at it.

Mr. GOLDSBOROUGH. There are various methods by which it might be done safely, but I will call the committee's attention to the crossing at Dupont street and Connecticut avenue. Now, P street, running east and west, represents practically M street—is analagous to M street. There is a double track road running on Connecticut avenue, and it swings in toward P street on that side of the circle and around and goes on out Connecticut avenue to the Columbia road.

Mr. HACKETT. I do not like to interrupt you at all, but I would like to have you tell the committee if there is a large amount of traffic coming down through P street—a large number of carriages every hour of the day?

Mr. GOLDSBOROUGH. Yes, sir. P street is a very narrow street; I think but 35 feet wide where that double track is laid. There is a good deal of traffic there, but there is an element there that is not present in the case of Thomas circle, and that is that any good day you will

see from five hundred to a thousand women and children in Dupont circle. I have seen it so crowded that they were as thick as black-birds. It is a great public resort there. There are many trees and flowers there. It is a health resort, while at Thomas circle there is nothing of that kind. There is merely, in the center, a grass plat and an heroic statue of the hero General Thomas. Anybody who wants to see that, it being majestic in its proportions, can see it better from the other side of the street than they can by going to the center, and in fact nobody goes to the center.

What makes a safe crossing? Why, light, room for sight, room for handling crowds, room for people to move, for the crowds to be moved without obstructing the ordinary traffic of the street. If the tracks were laid so that the cars came in from M street and moved around toward the right on the Capital Traction line to M street going east, it would add very little difficulty, very little danger to whatever degree of danger exists there already.

Senator MALLORY. They would have to run around on the other side?

Mr. GOLDSBOROUGH. Not necessarily.

Senator MALLORY. Both on one side?

Mr. GOLDSBOROUGH. Yes, sir; they do now at Dupont circle, and in my opinion, and in the opinion of engineers, which is more to the point, that is the proper way for it to be done.

Mr. HACKETT. The tracks do not run around on Dupont circle. They only go halfway around.

Mr. GOLDSBOROUGH. On Dupont circle; yes. They could go on Dupont circle around to P street, and out, and that would exactly represent the situation.

Senator MALLORY. But this is the situation, and we want to find out how we are to work it. You have a double track on M street?

Mr. GOLDSBOROUGH. Yes, sir.

Senator MALLORY. When you get to Thomas circle are you going to put both the coming and the going cars on the south side of Thomas circle?

Mr. GOLDSBOROUGH. Yes, sir.

Senator MALLORY. Is that your proposition?

Mr. GOLDSBOROUGH. Yes, sir. You can do it either way, but we think that is the best. Here it is [indicating on map]. It is represented here [indicating] and it swings in here; this is the Capital Traction Company and this is M street [indicating].

Senator MALLORY. Do you propose to relay the Capital Traction tracks?

Mr. GOLDSBOROUGH. I suppose we would be required to do that.

Senator GAMBLE. You would move the Capital Traction tracks over to the west side?

Mr. GOLDSBOROUGH. If that is deemed desirable it should be done, and at our expense.

Senator MALLORY. One side of that circle would have then four tracks and two sets of cars traveling over those four tracks at very short intervals?

Mr. GOLDSBOROUGH. Both lines would run over the same tracks. Here is also another method of doing the same thing without interfering with their tracks; coming in in this way and just swinging around in this way [indicating on map], around Thomas circle.

Now, as a matter of course, there is a certain element of danger at

all street-railway crossings, but the danger is likely to be, and I think in this case it has been, greatly exaggerated.

Take the corner of Fifteenth street and Pennsylvania avenue, and see how beautifully the crowds are handled there, where there are sometimes 50,000 and as many as a hundred thousand people a day, and there is a car coming every fifteen or twenty seconds from one direction or the other on the lines of the Capital Traction Company. It is a very rare thing for anybody to be injured there.

Take the corner of New York avenue and Fourteenth street, where there are three lines converging, where there is a car always in sight, and as a rule there are three; and it is the rarest thing that you ever hear of anybody being injured there.

Mr. HACKETT. They used to sell gravestones at that corner. [Laughter.]

Mr. GOLDSBOROUGH. I know, and they gave it up because there was no business there for them. [Laughter.]

The CHAIRMAN. As a matter of fact—and this is a great tribute to the existing corporations—can any gentleman present tell the committee when human life has been sacrificed in the city of Washington by street railways?

Mr. HACKETT. I know somebody came near being killed near New York avenue and Fourteenth street.

Mr. GOLDSBOROUGH. There is no doubt about the fact that Washington enjoys an exceptionally fine railroad service and that it has two exceptionally fine systems. No human being can doubt that; and we are not here, and the people behind this bill are not here, asking that there should be any legislation passed that would be oppressive or unfair to either of those systems. There is too much good in them to be ruthlessly destroyed, either of them or any part of them. We do not believe that either of them will be injured by this bill. We believe that we will give to both of them as much business or more business than we will take from them or either of them. And it is my own personal conviction that if the bill should be passed, within a year these gentlemen will be as well satisfied with the results of it and far better satisfied than if either of them had been given this franchise.

Mr. DUNLOP. I want to agree with Mr. Goldsborough right there, that if they built it we would be very much better satisfied if they are to operate it than we would if we built it. [Laughter.]

Mr. GOLDSBOROUGH. Now, then, the remark which President Dunlop has just made, I think, furnishes the key to the answer to this question that has been so frequently propounded here in regard to the rights of these existing corporations as to this territory. Both of these gentlemen have told you that it would not pay and they do not want it and they would not build it except under coercion. Now, I want to add something to that: Neither of them could build it, within any reasonable time, against the active antagonism of the other one. If the Capital Traction Company did want it, General Harries would be here, saying "We can not afford—we do not think it is fair that you should further augment this great and powerful corporation."

Mr. HARRIES. Inasmuch as I am alive and have the faculty of speech, if the gentleman will let me make my own argument against the Capital Traction Company, I shall be obliged.

Mr. GOLDSBOROUGH. We will do that when the time comes; yes.

Mr. DUNLOP. That whole matter would be left with Congress to say.

The CHAIRMAN. I would make this suggestion on that point. As a member of this committee—and I speak for no one else—I do not recognize that Congress has granted any territorial rights to these railroads beyond the streets over which they pass, and that a contention of that kind would not stand very long in the face of a public necessity. So that I think we might eliminate all the suggestions that have been made as to the “invasion of territory.”

Mr. GOLDSBOROUGH. Well, of course, that disposes of that end of the proposition. These gentlemen do not want it. They are not applying for it, and there is a public necessity for it.

One word more with reference to a matter that has been referred to by the gentleman who represents the Washington Railway and Electric Company, and I shall have done.

We were told by the president of that company, who represents the receivership end of it at this hearing (Mr. McDermott), and we have been told again by General Harries, who represents both ends of it, the entire system; that they have seriously in mind meeting this public need by adopting a system of automobiles. Now, if there is not any greater public necessity for it than can be satisfied by running automobiles now and then across town in the manner that he has indicated, why there is no need for it whatever. But suppose he runs his automobiles, what is the citizen to pay for them? Is he to grant free transfers to them, so that he can come across for one fare?

Mr. HARRIES. Yes.

Mr. GOLDSBOROUGH. Well, that is a proposition that until this moment, at any rate, has not been defined. If he does that, however, if he has his automobiles stationed at all these crossings, or enough to fill this demand, it will take more money—a great deal more money than would be required to build this road in first-class style.

Mr. HARRIES. Mr. Chairman, I certainly dislike to interrupt the gentleman, but does he mean to say seriously, in the presence of intelligent men, that it is more expensive to buy 20 cars—because that is what the automobiles are—than it will be to buy twenty cars and lay track at a cost of a hundred thousand dollars a double-track mile?

Mr. GOLDSBOROUGH. Well, in the first place—

Mr. HARRIES. Does the gentleman mean that? That is all it is. Will you run with or without tracks?

Mr. GOLDSBOROUGH. It depends on what you are going to pay for the 20 cars and what it will cost to operate them.

Mr. HARRIES. Put them at the same figure precisely in cost.

Mr. GOLDSBOROUGH. That is for the cars. To operate the cars it would be absolutely impossible to accommodate any great number of people. Twenty cars would not do it.

Mr. HARRIES. I am just taking a certain number of cars, 20. You will not run 20 suburban cars in the city of Washington from the Great Falls road.

Mr. GOLDSBOROUGH. A great many more.

Mr. HARRIES. Not suburban cars.

Mr. GOLDSBOROUGH. We will run a great many more—

Mr. HARRIES. That is the urban dog that you want to tack on to the suburban tail that I was talking about before. [Laughter.]

Mr. GOLDSBOROUGH. The gentleman has had much more experience with urban dogs and suburban tails and the management of them than I have. [Laughter.]

Mr. HARRIES. We have, and we do not want to have to buy any more. [Laughter.]

Mr. GOLDSBOROUGH. I am afraid that you will not have an opportunity to buy any more in this direction.

However, I say here that there is nothing in the state of the art in the automobile line to warrant the assumption that such a line will ever be built within a period short enough or soon enough to grant the relief which this bill in intended to provide for.

The CHAIRMAN. On that subject I would like to ask General Harries a question for information. I recall the fact that a few years ago we had what were called "cigarettes," or something of that kind. I noticed one going up Massachusetts avenue one night, and it nearly frightened me to death—

Mr. HARRIES. You were not half as badly frightened as the stockholders. [Laughter.]

The CHAIRMAN. They made a failure, did they not, because of the weight of the vehicle?

Mr. HARRIES. The same reasons that brought about the failure of the storage battery cars on the Metropolitan road brought about their failure.

The CHAIRMAN. That question was asked for the purpose of leading up to another. Without asking you gentlemen to give away any secrets of this new construction, whatever it may be, is it assured that the cars that you have in your mind and which you think are to be a success are light cars?

Mr. HARRIES. Yes, sir.

The CHAIRMAN. And will not damage the streets as those others did?

Mr. HARRIES. Not at all, sir. There is no additional weight. There is no weight except the weight of the operating mechanism itself. These cars have been operated for more than a year and a half in the city of Chicago on regular routes, in large numbers, carrying passengers satisfactorily, having all the capacity of the average car; and not only in Chicago, but in at least five other cities, doing very difficult work under very, very adverse conditions.

The CHAIRMAN. If that be so, General Harries, and they are going to answer the demand for a new street railroad, what is going to become of your road and Mr. Dunlop's road when these cars invade your territory?

Mr. HARRIES. I have no doubt in the world, sir, that the day of the street railroad track is as nearly gone as anything can be which is still in existence. I have no doubt in the world that the capitalists of a very little while from now will drop out of his fixed charges all thought of underground railroad construction.

Senator MALLORY. Do you think you will ever have an automobile running over the streets with the rapidity with which a car will run over a track?

Mr. HARRIES. Yes, sir.

Senator MALLORY. You will have to look out for pedestrians.

Mr. HARRIES. I am aware of that.

Senator MALLORY. The track is a warning of itself that there is a right of way there, and everybody recognizes that a car is certain to come along there; but if you have an automobile speeding 16 miles an hour or 12 miles an hour—

Mr. HARRIES. But an automobile, Senator, is absolutely under control. I have been running a machine myself—

Senator MALLORY. But they run over people sometimes.

Mr. HARRIES. I never have, and never expect to.

Senator MALLORY. Oh, no; I did not mean that you had.

The CHAIRMAN. I have a great suspicion of schemes, but if this scheme is to become an accomplished fact, we will have the street railroad and the automobile line on the same street, because you can not shut off the automobile; they are a law unto themselves.

Mr. GOLDSBOROUGH. I have but one word more to say in response to the declaration of President Dunlop that it would be impossible that we could have a more frequent service across the Aqueduct Bridge than one car every ten minutes. He says it would take five minutes to go across and five minutes to return. I believe that the distance is about 1,100 feet, and I can imagine no reason, with the bridge reconstructed as that has been for the very purpose of safely carrying a superstructure of the sort that is being installed there—I can imagine no reason why it should take more than three minutes; and the engineers of the company who are putting it in say that three minutes will be amply sufficient. According to President Dunlop's view that will be more than sufficient, because we will not have any need for a more frequent service. If his view is incorrect and our view is correct and there is need for a more frequent service, that is a matter which can be provided for in the future.

In conclusion, Mr. President, I desire to thank the committee for its very patient hearing, and to say that I hope it will consider the needs of 99 per cent of the people of the District of Columbia who are wholly disinterested in this bill, rather than the personal objections of 1 per cent of the people who are on the other side.

Mr. PAUL E. JOHNSON. By leave of the committee, I would like, as a matter of record, to state that there is a large protest signed by the L street property holders against the use of L street for this road. It was not as long as the M street protest, because we confined ourselves to the street from Twenty-second to Eleventh streets, which was only mentioned in the Commissioners' report, while the M street people took signatures, I imagine, from Connecticut avenue to New Jersey avenue, the whole length. Then, besides, our protest is signed exclusively by people who live on L street.

(The committee thereupon, at 1.45 p. m., adjourned sine die.)

THE MALL PARKWAY.

HEARING

297

BEFORE THE

COMMITTEE ON THE DISTRICT OF COLUMBIA

OF THE

UNITED STATES SENATE,

SATURDAY, MARCH 12, 1904,

ON THE

BILL (S. 4845) REGULATING THE ERECTION OF BUILDINGS
ON THE MALL, IN THE DISTRICT
OF COLUMBIA.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1904.

REGULATING THE ERECTION OF BUILDINGS ON THE MALL IN THE DISTRICT OF COLUMBIA.

COMMITTEE ON THE DISTRICT OF COLUMBIA,
UNITED STATES SENATE,
Washington, D. C., March 12, 1904.

The committee met at 10 o'clock a. m.

Present: Senators Gallinger (chairman), Foraker, Dillingham, Foster, of Washington, Scott, Martin, and Mallory; also Senators Wetmore and Newlands.

There were also present Messrs. D. H. Burnham, of Chicago, Ill.; C. F. McKim, of New York; Augustus St. Gaudens, sculptor, of Windsor, Vermont; F. L. Olmsted, jr., of Boston, Mass. (members of the park commission of the District of Columbia); W. B. Mundie, of Chicago, Ill.; George B. Post, of New York; W. S. Eames, of St. Louis, Mo.; Frank Miles Day, of Philadelphia, Pa.; Leon Dessez, Glenn Brown, and J. C. Hornblower, of Washington, D. C.; James K. Taylor, Supervising Architect of the Treasury; G. O. Totten, jr., Thomas M. Kellogg, architects; Prof. S. P. Langley, Superintendent of the Smithsonian Institution; Charles C. Glover, president of the Riggs National Bank; Franklin W. Smith, and Blair Lee, esqs.

The CHAIRMAN. The committee will come to order.

The committee has called this meeting and has invited you gentlemen to be present for the purpose of giving consideration to Senate bill 4845, which was introduced on the 7th day of the present month by Senator Newlands, of Nevada. The bill, which is very brief, is as follows:

That no building shall be erected on the Mall of Washington, District of Columbia, within four hundred feet of a central line stretching from the center of the Dome of the Capitol to the center of the Washington Monument.

That is the question that will be before the committee to-day. Notwithstanding the limited time you gentlemen will have to discuss this matter, you may depart somewhat, if you so desire, from the question directly involved to the consideration of matters more broadly affecting the project that some of us have in mind of having some system in this city, so far as the construction of public buildings is concerned, and the development of the park system of the District of Columbia.

It will be remembered that during the time that my lamented predecessor, Senator McMillan, was chairman of this committee, a movement was inaugurated and a commission appointed to make investigations with regard to matters relating to what is popularly known as the beautification of the city of Washington. That commission, composed

of eminent gentlemen—two architects, one sculptor, and one landscape gardener—made a report, a copy of which I hold in my hand and which deals exhaustively with this question. Another gentleman, who is present to-day by my invitation, Mr. Franklin W. Smith, has given a great deal of thought to this subject and has written exhaustively on the questions pertaining to it.

I wish we had time to go more thoroughly into this question than we will be able to do to-day, but this committee is overwhelmed with work, and every Senator is crowded with duties upon many committees, and it is a very difficult matter to get the committee together for any purpose, and it is necessarily very difficult for any of us to give very much time to the consideration of any given subject, however important it may be.

Now, gentlemen, we have, before 12 o'clock, when the members of this committee will certainly have to leave for the discharge of other duties, an hour and thirty-nine minutes, and that time will have to be utilized very judiciously. Each speaker will have of necessity to be brief, and I trust that by a careful arrangement and utilization of time everyone who desires to be heard can be accommodated.

As a preliminary I will take the liberty of putting in the record certain resolutions adopted by the Washington Architectural Club. I will read them:

Whereas the new building for the Department of Agriculture, if placed in the position now proposed, would materially interfere with the plan for a great vista, devised by Major L'Enfant, under the directions of Washington and Jefferson, and

Whereas it would also create an unfortunate precedent, defeating the grand and now almost sacred ideas of the founders of the national capital; be it therefore

Resolved, That the Washington Architectural Club earnestly protests against this or any similar encroachment upon one of the grandest plans for civic betterment ever devised.

Be it further resolved, That this country may not lose an exceptional and magnificent opportunity for creating the most superb capital of the world, the Washington Architectural Club respectfully urges Congress to adopt in its entirety the L'Enfant idea as amplified and presented by the park commission appointed by the Senate committee.

Be it further resolved, That copies of these resolutions be sent to the Senate and House of Representatives of the United States.

I have here a letter from Nicholas Murray Butler, president of the Columbia University of New York, which came to me in this morning's mail, and which I will read. President Butler makes an argument in favor of an 800-foot vista, or whatever it may be called, from the foot of the Capitol to the Washington Monument.

The letter referred to by the chairman is as follows:

PRESIDENT'S ROOM, March 11, 1904.

HON. JACOB H. GALLINGER,
United States Senate, Washington, D. C.

MY DEAR SENATOR GALLINGER: I learn with great pleasure from the Record of March 8 that a resolution has been introduced and referred to the Committee on the District of Columbia, establishing definitely the 800-foot mall between Capitol Hill and the Washington Monument. I was glad to observe, too, from your own part in the discussion, that you appear to favor this proposal. I write simply for the purpose of saying that all over the country there is a very strong sentiment in favor of carrying out in their main details the plans for the development of Washington which were prepared under the guidance of the late Senator McMillan. While superficially there does not appear to be much difference between an 800-foot mall and a 600-foot mall, the fact remains that to narrow the mall to less than 800 feet destroys its proportions and compels the recasting of its details.

Surely it can not be a matter of prime importance, when the Government controls or can readily control the adjoining land, whether the building for the Agricultural Department or any other building is placed 100 or 200 feet in one direction or another. I earnestly hope, as many others do, that the Committee on the District of Columbia will support the project for an 800-foot Mall and secure its enactment into law.

With high regard, I am, faithfully yours,

NICHOLAS MURRAY BUTLER.

The CHAIRMAN. I have also a letter from Hon. James Wilson, Secretary of Agriculture, which bears directly upon this question, and which I will read to the committee. The Secretary is ill and has asked Doctor Galloway to represent the Department at the meeting this morning, and Doctor Galloway is present and will speak for the Secretary.

The letter from the Secretary of Agriculture to which the chairman referred is as follows:

DEPARTMENT OF AGRICULTURE, OFFICE OF THE SECRETARY,
Washington, D. C., March 9, 1904.

HON. J. H. GALLINGER,

Chairman Committee on the District of Columbia, United States Senate.

DEAR SENATOR GALLINGER: I noted with interest the discussion which took place yesterday upon the bill offered by Senator Newlands to the effect that "no building shall be erected on the Mall of Washington, D. C., within 400 feet of a central line stretching from the center of the dome of the Capitol to the center of the Washington Monument." A year ago I was authorized to erect a building or buildings for the Department of Agriculture, and since the bill became a law the matter has received very careful attention from my hands. There were some statements made yesterday in the discussion on this bill to which I should like to call your attention.

It is true that the original plan of L'Enfant provided for a Mall 1,600 feet in width, extending from the Capitol westward to where the Monument now stands. It is also true that through the center of this Mall there was to be a roadway 467 feet in width; on either side of this roadway strips of grass, making the total space through the center of the Mall about 1,000 feet in width. The park commission in its plan for the beautification of Washington modified the plan, as stated, to 800 feet in width. At the time that L'Enfant prepared his plan of Washington, the Monument was not contemplated. When the Washington Monument was erected it was placed 100 feet, or thereabouts, farther south than the center of the proposed parkway or vista—whatever you may choose to call it. The park commission, in setting out its lines, adopted the center of the Monument as one axis and the center of the Capitol as the other. This makes the building lines run diagonally across the Mall and, as you will readily understand, gradually narrows the building spaces the farther you proceed from the Capitol. As a matter of fact, the building space left to the Department of Agriculture on the south side of this 800-foot line is very limited, something like 200 feet in width. It is entirely inadequate for the construction of our buildings. Furthermore, the 800-foot line, if adopted, would necessitate the destruction of the beautiful Smithsonian building, which is entirely on the north side of the southern boundary of the line. In other words, the southern boundary of the 800-foot parkway runs south of the Smithsonian building, and at least 100 feet south of the present Agricultural building.

If it is your wish I should be glad to have full copies of maps, charts, etc., set before your committee illustrative of these points. We have had them all looked up, and have presented the matter fully to the attention of the Committee on Agriculture in the House and to the President. Through an arrangement made by the chairman of the Committee on Agriculture in the House the entire matter was brought to the attention of the President a short time ago. I inclose herewith a minute of the proceedings of this meeting.

It was stated in the discussion by Mr. Newlands, I believe, that we are proposing to erect our buildings in front of our present structure. This is a mistake. Our new buildings will go back of the present structure, and will be farther south than the Smithsonian Institution. In other words, our new buildings will not encroach on the proposed parkway as much as the Smithsonian building does at the present time.

Assuring you of our desire to furnish any information within our power if you desire the same, I remain,

Very respectfully,

JAMES WILSON, *Secretary.*

The CHAIRMAN. Attached to that letter is a minute relative to a meeting held in the office of the President, February 5, 1904, in reference to the location of Department of Agriculture building, as follows:

On Friday, February 5, 1904, the honorable Secretary of Agriculture and the members of the Agricultural Committee of the House of Representatives met the President by appointment for the purpose of considering certain matters relative to the location of the buildings for the Department of Agriculture. The members of the Committee on Agriculture present were as follows:

Hon. James Wadsworth, chairman; Hon. E. S. Henry, Hon. G. N. Haugen, Hon. C. F. Scott, Hon. J. V. Graff, Hon. George W. Cromer, Hon. William Lorimer, Hon. F. E. Brooks, Hon. H. C. Adams, Hon. Sydney J. Bowie, Hon. Phanor Breazeale, and Hon. J. W. Cassingham.

The President was shown various plans and maps of the city of Washington, among others the original map of L'Enfant, outlining the treatment of the Mall. There was also shown the treatment of the Mall as proposed by the Park Commission. Attention was called to the location of the present agricultural building and the present Smithsonian building, with reference to the park scheme proposed by the Commission. It was pointed out that the Department of Agriculture buildings could be located on the north side of the parkway, but to this plan the members of the Committee on Agriculture present were unalterably opposed. They stated that the proper place for the Department of Agriculture buildings was on the south side of the grounds near the location of the present structure; that it would be unfortunate to place the buildings on the low ground near B street NW. It was shown that the whole question hinged on whether a parkway 800 feet in width should be reserved, extending from the Capitol to the Monument, or whether this should be reduced to 600 feet in order properly accommodate the Department of Agriculture buildings and to retain the Smithsonian Institute building. The President asked the committee if they were in favor of this plan, and they answered that they were not only unanimously in favor of it, but were enthusiastically so. The President thereupon replied that the matter would stand in that way, and the Secretary of Agriculture issued instructions at once that we proceed with the plans on the basis that the buildings would be erected in conformity with the 600-foot proposition.

B. T. GALLOWAY,

Chairman Building Committee, Department of Agriculture.

The CHAIRMAN. I am also in receipt of a letter from the American Institute of Architects, which I will read to the committee.

The letter referred to by the chairman is as follows:

THE AMERICAN INSTITUTE OF ARCHITECTS,
Washington, D. C., March 12, 1904.

Hon. J. H. GALLINGER,

Chairman Senate Committee on District of Columbia.

SIR: The undersigned are informed that it is the intention of the Department of Agriculture to construct a group of new buildings so located as to seriously interfere with and actually prevent the development of the original plan of the city of Washington as laid out in 1790 by President Washington and P. C. L'Enfant.

The city of Washington is, and forever will be, our national capital, and does not belong to the District of Columbia, but to the citizens of the 45 States of the Union.

The original plan has been acknowledged in all quarters of the world as the best scheme devised for a dignified and artistic capital city. It is our duty to have it executed in such a manner as to make our national city the equal, if not the superior, of any of the capitals of Europe.

This protest against such inconsiderate action as the location of any structure that will prevent a development according to the original plan is therefore filed with you, with the request that you use your very valuable influence toward preventing what would surely prove to be a national and irreparable mistake.

The Senate bill No. 4845, regulating the erection of buildings on the Mall, introduced by Senator Newlands March 7, 1904, if passed, will preserve the plan.

W. S. FAMES, St. Louis, Mo., President A. I. A.

GLENN BROWN, Washington, D. C., Secretary A. I. A.

The CHAIRMAN. The author of the bill (S. 4845) which the committee is to consider this morning, Senator Newlands, is present, and while the chairman will take the liberty of suggesting to the Senator that the

members of the committee or other Senators ought not to take much of the time of this meeting, still, if the Senator desires to say a word, the committee will be glad to have him do so.

Senator NEWLANDS. Mr. Chairman, I only desire to say a word, and that is that the executive committee of the American Institute of Architects is present—all capable and trained men—to give their views with regard to this matter, and there are also present certain citizens of Washington. As to the method of procedure, it is a question in my mind as to whether the committee should not first hear from Doctor Galloway regarding the plans of the Department of Agriculture, and then hear from Mr. Burnham and others.

The CHAIRMAN. The chairman will decide that matter. The order will be as follows: The gentlemen representing the two proposed buildings on the Mall, the Agriculture and Museum buildings, will be heard first, after which the gentlemen—whether they are members of the park commission or not—the architects, will be heard, and then Mr. Franklin W. Smith will be heard for fifteen minutes.

Doctor Galloway, the committee will hear from you now.

STATEMENT OF B. T. GALLOWAY.

Mr. GALLOWAY. Mr. Chairman and gentlemen of the committee, I shall endeavor to be brief in the remarks I shall make, and will speak with special reference to the matter as it concerns the Department of Agriculture. I should like first to briefly call attention to the legislation that gave the authority to the honorable Secretary of Agriculture for the erection of the building. That legislation was enacted about a year ago, and appropriated \$1,500,000 for buildings to be erected in accordance with plans and estimates that the law prescribed. The buildings were to be erected in the immediate vicinity (those are the words used) of the present structure. Thus the Secretary is directed by law to use his own authority and judgment in selection of plans, and, furthermore, in the location. As soon as the money became available the work was at once inaugurated, and after some necessary delay the firm of Rankin, Kellogg & Crane was secured as the architects. Those gentlemen began the work in September last, and at the time they began the question of location was left open; but, of course, after the work had progressed a little the question of location naturally came up, and the whole matter of the proposed plan as made by the Park Commission had necessarily to be considered.

As set forth in the Secretary's letter, the plan of the park commission carries with it the idea of a line running from the center of the Capitol to the center of the Monument, joining the axis, and this line does not coincide with B street northwest and southwest, which runs from east to west; that is, the line runs across the Mall in a diagonal manner in such a way that it reduces gradually the width of the southern lots until it reaches our Department. Our south lot is 225 feet in depth—something like that; whereas if the line was straight it would be 400 feet in width. Our entire grounds comprise 40 acres. I have here a chart which will illustrate better what I have to say, probably, than I can express it. This chart shows the Department of Agriculture grounds extending from Fourteenth to Twelfth streets, and then the proposed parkway or vista, as proposed by the park commission, with the walks first, then the roadways, then four rows of elms abreast,

then another roadway, and grass, etc., making a total width from building line to building line of approximately 800 feet.

The Secretary of Agriculture has preferred to keep open the question of location as long as possible. After the whole matter was considered in October last it was thought that it would probably be better to consider the north site. Consequently our architect worked out a plan on that basis, and we have a scheme which shows the arrangement of the buildings on the north side of the Mall facing the so-called parkway.

Senator NEWLANDS. That is directly opposite the present location, is it?

Mr. GALLOWAY. Yes, sir; it also faces the north. This is the view we have here [illustrating on picture]. On this large picture, that is the north [illustrating], facing the city, whereas the south front, which is somewhat more elaborate, is shown in some of these diagrams. So that we had laid out the plan with that idea in view. Soon after that, however, some of the members of the House—notably those connected with the Agricultural Committee—called on the Secretary and expressed the opinion that it would be very undesirable to locate the building on the north side, where the situation was undesirable and the ground very low. The buildings would be set up against a lot of lumber yards and shops and things of that nature; and furthermore, the ground at best is only about 6 or 7 feet above mean tide. The Secretary left the matter largely in their hands, and they called on the President, with the result as already read by the chairman. This action necessitated a complete change in our plans, and we went to work with a view to ascertaining what could be done in the matter of buildings on the south side, and we have here a scheme worked out for the south side, assuming that our new buildings would be back of the present ones and extending into the Mall not more than 35 feet.

Senator SCOTT. How near is that to the present Agricultural building?

Mr. GALLOWAY. Our new building will be about 100 feet back of the present structure—not in front, but back of it.

Senator WETMORE. Back of the present Smithsonian building?

Mr. GALLOWAY. Yes, sir; about 75 feet back of the present Smithsonian building.

The CHAIRMAN. Is that proposed new building to be west of the present Agricultural building?

Mr. GALLOWAY. No, sir; it will be centered just as the present building is—not centered exactly with the lot, but will be with Thirteenth street.

Senator DILLINGHAM. What is the size of that piece of ground?

Mr. GALLOWAY. This piece of ground, as it stands now, is 350 feet in width.

Senator DILLINGHAM. Your plan will be 350 feet in width by how long?

Mr. GALLOWAY. One thousand feet.

Senator NEWLANDS. Is that entire building to be put up now, or is that the plan of the building as it is to be when completed, with only a section constructed now?

Mr. GALLOWAY. With only a section. This [illustrating] is the section which it is proposed to construct now—the four buildings. The administration building will have to go over for the present.

Senator NEWLANDS. Do I understand that you can get that on the lot south of this proposed vista?

Mr. GALLOWAY. We can get that all on the lot south of the proposed vista, assuming that the parkway is 600 feet in width.

Senator NEWLANDS. But you can not get it on the lot if the vista is 890 feet in width?

Mr. GALLOWAY. No, sir.

Senator SCOTT. Do I understand you that you propose to build four separate buildings, or is it to be one entire building?

Mr. GALLOWAY. It will probably be all one building when completed. It will be connected by corridors. I wish to say just a few words with regard to the necessity for that. Our Department work is very different from that of any other Department of the Government. We have investigations going on all the time—some with regard to animal diseases, and it is absolutely essential to cut off certain sections of the building. Therefore a monumental structure for both laboratory and office work could not be considered; hence this provision for practically separate buildings in one harmonious whole was adopted.

Senator WETMORE. Please indicate again on the diagram the four buildings which you propose to put up.

Mr. GALLOWAY. This one [illustrating], this one, and this one.

Senator NEWLANDS. Which site do the architects of the Agricultural building prefer, the site to the north of this vista or to the south?

Mr. GALLOWAY. The site to the north. The architects all agree on that, I think. At least I have found no architect who did not agree as to that.

Senator NEWLANDS. That is not the one which the Agricultural Committee recommends, is it?

Mr. GALLOWAY. No, sir; the whole scheme was laid out by the architects, as I have stated, but our architects recognized that the Secretary of Agriculture was the proper authority with regard to the subject, and we have prepared plans adapted to either the north or the south side.

Senator DILLINGHAM. What is the contemplated expenditure for the entire group of buildings when completed.

Mr. GALLOWAY. That is a matter that I would like to refer to Mr. Kellogg, our architect. He can answer that. We have not considered that very fully, but on the basis of what work we have done I should say it would be in the neighborhood of three and a half or four million dollars.

Senator DILLINGHAM. What was the cost of the present buildings?

Mr. GALLOWAY. One and a half millions.

Senator NEWLANDS. I understand that the architects objected to and protested against this change from the north side to the south side. Is that so?

Mr. GALLOWAY. No; they did not protest. They are not of a protesting kind. They are simply gentlemen who gave us their best advice and services and advised us, of course, that the north side would be preferable from an architectural standpoint. I hardly think the word protest could be used.

The CHAIRMAN. Please hasten as much as possible in your remarks, Mr. Galloway.

Mr. GALLOWAY. Mr. Chairman, I think I have gone pretty thoroughly over the whole ground. I desire to call attention to these exhibits which I leave on the table. The first exhibit, marked "A," shows the parkway or Mall as it exists at present, with the Monument in the distance, and shows the angle, the Monument being off the center. The next exhibit is a photograph of a model showing the parkway scheme with the walks and rows of trees, and the same thing is set forth in the large picture which we have here. Exhibit C is the original map of L'Enfant. That is simply a portion of the Mall, which shows the proposed driveway through here [illustrating], 467 feet in width, running due west from the Capitol—the Monument was of course not contemplated at that time—with grass and rows of trees on either side. The next picture, marked "D," shows the scheme 800 feet in width, running through the Smithsonian grounds and the Department of Agriculture grounds. You will note that the south line stands a considerable distance back of the Smithsonian and a still greater distance back of the Agricultural Department. You will also note on the right in the plans an outline of our present buildings. The next picture, marked "Exhibit E," shows the 600-foot line. In that picture the line goes about through the center of the present Smithsonian building and through the rear of the present Agricultural building.

Those are the exhibits to which I desire to call especial attention and to say just one or two words in conclusion with reference to the attitude of the Secretary upon this whole subject. I think the Secretary has been consistent from the first, that it would be undesirable to put more buildings on the Mall, and that is one reason why he has hesitated about going on the other side; that if the Mall is to be kept for the city it should be kept as a natural park rather than a formal one, as proposed here by the park commission; and, secondly, because the very nature of our work makes it necessary for us to have a series of buildings which will require more ground than a compact structure. The whole difficulty arises naturally from the fact that the Monument is off center and our building lot on the south side has been restricted. If the line ran straight from the Monument to the Capitol our lot would be about 450 feet, which would serve every purpose.

Senator NEWLANDS. Suppose the Mall triangle, as it is called, was treated in a different way, and the streets running north and south were readjusted so as to enable the buildings to be lined up parallel with Pennsylvania avenue, and the whole thing was given a park-like appearance south of Pennsylvania avenue, would there be any objection to the Agricultural Department being put on that avenue?

Mr. GALLOWAY. I do not think there would be any objection whatever. I think that is one thing which the Secretary has been interested in more than anything else—the preservation of the present Mall as a park rather than as a plaza for the erection of buildings and a formal treatment like some of our avenues. We have on New York avenue a row of trees with grass in the center, and it will only require a little stretch of the imagination to see trolley cars passing down the roads which the park plan puts through the Mall.

Mr. F. W. SMITH. The Secretary of Agriculture has expressed himself most emphatically against cutting away of the trees in the Mall and as being in favor of their being left as a park.

Mr. GALLOWAY. Yes, sir; and I think that is the general sentiment of the people of Washington. I think if the people of Washington

could vote upon that proposition they would be unanimously in favor of it.

Senator FOSTER, of Washington. What is the difference between the north and the south side?

Mr. GALLOWAY. The mean level on the north is about 7 feet above tide. We have had since I have been in the Department, about fifteen years, $\frac{1}{2}$ feet of water over that low ground, and of course the placing of these buildings there would mean that the ground would have to be raised. I believe the plan contemplated a supporting wall and viaduct on the streets running north and south. That would be necessary on Thirteenth street especially.

STATEMENT OF PROF. S. P. LANGLEY, SMITHSONIAN INSTITUTION.

The CHAIRMAN. Is there anyone present representing the Smithsonian Institution?

Mr. LANGLEY. Mr. Chairman and gentlemen of the committee, I have not a great deal to add to what the committee has already heard. As is generally known, there has been an appropriation made of \$3,500,000 for the erection of a new museum building. That building lies entirely to the north, not only of the axial line from the center of the Capitol to the center of the Monument in its present position, but north of the 400-foot width which travels exactly before the portico. As far as that is concerned, I have no representation to make to the committee, for either plan will accord with the present location of the building at that place. With regard to the old Smithsonian building, which I hope we all take a kindly interest in, the case is different. As that building now stands, it is included in both the 300 and 400 foot width proposed. I presume that we are talking of nothing now which is immediate, but if this ever, in the course of succeeding years, becomes a clear roadway undoubtedly the Smithsonian Institution under either of those conditions would have to suffer.

The CHAIRMAN. Professor Langley, let me ask you—because your statement presents a view which I have not heretofore heard suggested—would a proposed 600-foot roadway encroach upon the old Smithsonian building? Would there not be a clear 300 feet to the south of the center line if it was 600 feet wide?

Mr. LANGLEY. The axial center line, as I have it in the print before me, and which I now speak of, is about 220 feet or 210 feet—I have not the exact figures—from the north of the north portico of the Smithsonian building. The 300-foot line parallel to that axial line passes through the rear of the present Smithsonian building, which consequently is entirely within the 300-foot—almost entirely within the 300-foot line. The 400-foot line is entirely to the south of the present Smithsonian building.

Senator WETMORE. May I ask Mr. Langley a question?

The CHAIRMAN. Certainly.

Senator WETMORE. I would like to know whether it is not entirely possible in these days to push back—in other words—to move a building without injuring it in the least; in other words, if in the future it should become necessary to move in any way the Smithsonian Institution, whether it might not be pushed back and preserved.

Mr. LANGLEY. That is rather a question for an engineer, but my

own impression is that either that can be moved to the south, or that even the Monument can be moved, if the gentleman will allow me that suggestion. [Laughter.]

Senator WETMORE. In other words, it is possible to do almost anything in these days from an engineering point of view?

Mr. LANGLEY. Yes, sir. My knowledge of engineering is not sufficient to render my impressions of any value to the committee, but I spoke quite seriously to the committee just now when I said it would be possible to move the Monument if desired; but it would certainly be possible to move the Smithsonian Institution.

Senator NEWLANDS. Is the Smithsonian Institution a durable building? I have been told that the material of which it is constructed is disintegrating.

Mr. LANGLEY. No; you can not say that it is disintegrating. It was built of Seneca limestone, I think, and it is in very fair condition. There has been some slight disintegration in the south tower, but not enough to cause any apprehension.

Mr. BURNHAM. Professor Langley, is the Smithsonian Institution now complete as to the exhibits? Do you anticipate in the future that the valuable material will require a much larger building or do you consider that it is now a finished structure?

Mr. LANGLEY. I have always considered it—and it is a good deal a matter of opinion—to be a finished thing, not to be added to.

Senator NEWLANDS. How about the present Museum? Will there have to be new museums in the future?

Mr. LANGLEY. That is looking a good way ahead. I see nothing now to demand it, but the Museum is steadily growing. There are something like 5,000 catalogued topics, and at its present rate of growth, if it continues to prosper, we may expect not in the wholly indefinite future to need more buildings.

Mr. BURNHAM. If the chairman will permit me, am I right in stating that it is two years since Mr. Langley and I spoke on this matter, and it was his opinion then that at least four times the material should be displayed in the museum for which there is no accommodation.

Mr. LANGLEY. I do not know whether I said four times, but we have certainly more than double. It may be that I did say so, but I will content myself now by saying that we have a good deal more.

The CHAIRMAN. Gentlemen, we have only about an hour and six minutes of time remaining. Mr. Burnham, do you desire to be heard now?

Senator NEWLANDS. Will it not be possible to continue the meeting this afternoon, Mr. Chairman?

The CHAIRMAN. There are a great many other important matters pressing on the committee for attention, and I do not think it will be convenient. Mr. Burnham, we will hear from you.

STATEMENT OF MR. D. H. BURNHAM, OF CHICAGO, ILL., A MEMBER OF THE PARK COMMISSION OF THE DISTRICT OF COLUMBIA.

Mr. BURNHAM. Mr. Chairman and gentlemen of the committee, you would naturally expect to hear that I stand for the element of beauty in public buildings and grounds. I stand also for a system, so

that in the future buildings shall be erected with reference to their grouping as a whole. The World's Fair illustrated the beauty which is produced by a grouping of buildings. Here a systematic plan was first evolved, so that the general result should be one of beauty. The beauty of the whole composition is superior to that of any individual building. People saw the World's Fair, and it had its effect. One of the effects seems to have been a desire on the part of the people to have a general plan (pl. 2) made for their capital city. This feeling must have been brought home to Senator McMillan, and he appreciated the fact that this sentiment was not only among professional men, but that there was a steadily growing and strong sentiment among the people of the United States themselves. We were asked to come here and to take up the question of a general plan for the beautification of this city. It seemed to be our opportunity to perform a public duty as well as a public work, an opportunity which does not often come to an architect. With the feeling that it would occupy but a few years, it gave us pleasure to devote that much time to the public service. We offered to study the problem without compensation, believing that in such a spirit we ourselves would be led to produce our best.

Senator NEWLANDS. Will you please state who are associated with you, and what their relations to the World's Fair are in this work?

Mr. BURNHAM. Mr. Charles McKim, of New York.

Senator SCOTT. By the way, is he the architect who built the office for the White House?

Mr. BURNHAM. I would like to speak upon that point before I am through.

Senator SCOTT. I think it would take more than an hour to do that, and I guess we can not hear you this morning.

Senator NEWLANDS. Mr. McKim is here and will give the explanation himself. It is merely a temporary structure.

The CHAIRMAN. We will not discuss that question this morning.

Mr. BURNHAM. The members of the commission were Mr. C. F. McKim, of New York; Augustus St. Gaudens, of Vermont; Mr. F. L. Olmsted, jr., of Boston, and myself. The commission began its work by making a survey—an optical survey—of the District, first going through the city in every direction in order to familiarize ourselves as much as possible with the lay of the ground within the city boundaries. We then made several tours around the outskirts of the city, in which we went up the Potomac as far as the falls to see the character of the water supply as well as the general appearance of the scenery in this section of the District. We encircled the city on the hills, spending a great deal of time, keeping our minds open as far as possible, without going to the documents or attempting to examine what had already been done. In this way we expected to become familiar without prejudice from anything that had already been done with the situation. We went to Arlington and then on the water as far north as it was possible and down the river to Alexandria. It was then suggested that it would be wise for us to see the old estates in Virginia. In this way we familiarized ourselves with the very source of the original inspiration. We went down the Potomac River and up the James and York rivers, visiting the old colonial estates located on these rivers. After having completed these surveys we examined the documents, among others the well-known L'Enfant plan (pl. 1), which

was prepared under the direction of and in participation with General Washington. Washington himself selected this location and then employed L'Enfant to carry out his ideas.

Curiously enough, it is now said that there is a little town south of Pittsburg and near Connellsville which was also laid out by Washington when he was a surveyor, platted much earlier than the Washington City plan. This town has streets radiating from the center, showing that it was Washington's conception that we have here in the city of Washington. The L'Enfant plan dealt with an axis—I am speaking strictly now of the Mall, from the Capitol to the Washington Monument. This Monument was authorized in 1782. The plan of L'Enfant was adopted by Congress and signed by General Washington in 1791 (pl. 1), so that it was at that time—and so far as I can find has remained officially since—the plan of this part of the city. We do not find that there has been any reversal of that action taken by Congress.

After making an examination of existing material it was most evident that it was our duty to go abroad and visit the various capitals of Europe and thus familiarize ourselves with principles and features in the Old World which might be utilized with advantage and profit in our country. We craved, of course, all the suggestions we could get which the intelligent minds of the past had to give us. Nothing less than that seemed our duty, and it was at very great inconvenience to each one of us that we made the journey. It was our plain duty, as we conceived it.

We studied all of the important and grand arrangements in the suburbs, as well as the closely built and monumental sections of the great cities of the world. We saw the notable avenues and streets in the different public and private grounds. Having made this investigation it was plain that the scheme of Washington City could not be improved. The great feature of this scheme was a grand parkway from the Capitol to the Monument. Having determined that this feature was fundamental, the question of the width became the burning question. What width should a parkway be which was a mile and a half long in the midst of one of the great capitals of the world? (Pls. 2 and 3.) We made a very thorough examination of every notable plantation where trees were used and an open space left between them, and we found that the nearest approach to the one in the Mall in its dimensions was Bushy Park, near London, and the parkway in front of the residence of the Marquis of Salisbury.

The CHAIRMAN. How wide are those?

Mr. BURNHAM. Almost exactly 300 feet. They are nearest to dimensions adopted by the park commission, and the dimension is a very beautiful one. Any other dimension would very much injure the proportion of width to length and thus destroy the effect.

Senator WETMORE. Do you mean 300 feet between trees and trees?

Mr. BURNHAM. Between trunk and trunk is the measure. Of course the foliage of the trees will overhang. There would be no allowance for this overhang of foliage where the parkway was narrower. The parkway as contemplated does not give a clear 300 feet because of this overhang. It is considerably short of that in its effect if you look between the trees. In order to make more sure, and to check ourselves, as we felt the very grave importance of the recommendations to the Senate, we requested the Supervising Architect of the Treasury to erect some flag poles where we could see them from the steps

of the Capitol and from the Monument itself. This was arranged and many trials were made. We tried 250 feet, and we tried 400 feet, and we tried 300 feet, and the 300-foot space was most plainly the best. Then the question not only came up but was discussed whether the commission should recommend to you the very best thing they were capable of finding, or whether something less, something of inferior grade or quality, should be recommended, and we had no doubt that you would expect of us—and certainly we felt ourselves that it was the proper thing—to recommend the very best treatment of this piece of ground.

Having determined that a 300-foot opening is necessary between the greatest monument in the world (pl. 3) and one of the greatest domes in the world, the discussion went to the supporting of it by trees on each side. There again we examined every notable avenue in Europe. We found that not less than four trees constituted an avenue; three trees produce a bad effect, because no space is left in the center and it becomes lopsided—people walk either on one side or the other—whereas with four trees there is a valley under the trees, with a great promenade on either side. Then the distance apart for planting elms was considered, and many hundreds of elm trees were measured in order that we might not make a mistake in the distance which the trees should be placed apart, lengthwise or crosswise, and this result represents our conclusion after a careful study. The effect of four trees is rich. There are some notable avenues in England which have six, and even more, and there is a certain richness and beauty that convinced us of the propriety of recommending not less than four trees on either side of the central parkway vista. We felt that the scheme had better not be executed if only two trees on the side were planted. It would be better not to attempt the development, because the line of trees would be so thin and ineffective as to make this city a laughing stock instead of obtaining such an effect as the entire country has the right to ask of Congress.

I do not suppose that the committee desires to go into the matter of the general features of this scheme. Therefore, I will say nothing more than call attention to the fact that the monument having been pushed over by the engineers when they built it because they found a better foundation, has made it necessary to deflect the axial line slightly to the south (pl. 2.) In the report of the commission a recommendation was made that the Government should buy all of this land between Maryland avenue on the south to Pennsylvania avenue on the north.

Senator NEWLANDS. That part which is called the Mall triangle?

Mr. BURNHAM. Yes; the part which is called the Mall triangle. That is very strongly recommended in the report of the Commission from which I now read:

With this gradual improvement has sprung up a general desire that the L'Enfant plans be reverted to, and that the entire space south of Pennsylvania avenue be set apart solely for public purposes.

That is the recommendation of the commission; I may add, the very strong recommendation of the Commission. It has been evident to us from the start that the building space on each side of the Mall would be inadequate for what was already in sight, and that in the future the Government would have to possess a great deal more land to accommodate future buildings.

Senator NEWLANDS. Which improvements do you think should go

up first, the buildings on the south side of Pennsylvania avenue or those on the Mall?

Mr. BURNHAM. I have no opinion about that. I should say when it comes to this question about the agricultural building—if it is expected that I should say anything about it at all—that the agricultural buildings should go where they will have plenty of land, the nearer the White House the better, because that is a building which is controlled by a Cabinet officer. From our point of view it would be much better if the building should be constructed on the corner of Fifteenth street and Pennsylvania avenue, bringing it into closer relationship with other departmental buildings.

The CHAIRMAN. That presupposes the purchase by the Government of the lands south of the avenue, does it not?

Mr. BURNHAM. Yes, sir.

The CHAIRMAN. While the present plan is to put it on land already owned by the Government?

Mr. BURNHAM. Yes, sir. Now, with regard to the two locations on Government land, Doctor Galloway has said that the north side was not considered because of its proximity to the lumber yards. I should not think it wise from any point of view to go on with this Mall arrangement or to attempt any great improvement unless you feel confident that in future it would not border on a lot of lumber yards. It seems to me that should not be considered, as they will disappear as they do in all growing cities. That ground, being available, is sure at no distant date to be covered with noble buildings, either by private individuals or the Government. We say that the Government is going to need that and more ground. The reasons for that belief could be placed before you. In the course of another generation this section will become necessary to the Government or municipality. It seems to me that that is an argument that should not be neglected.

The other argument was in regard to the grading. I have made a quick computation here of the figures given me and find that there will be 160,000 cubic yards of grading necessary to build up to the grading line. The Pennsylvania Railroad people are doing their grading for 15 cents, and I suppose this could be done for perhaps 30. That computation would result in \$48,000 extra cost. I will add to that walls, which would perhaps be \$30,000, making a total of \$78,000 which it would cost you to make that site suitable.

Mr. GALLOWAY. May I ask, Mr. Burnham, if the park commission, at the time they were considering these plans in detail, considered that question of retaining a wall along the north side of those low grounds?

Mr. BURNHAM. Yes, sir; we did.

Mr. GALLOWAY. Does that involve the viaducting of the streets running into the Mall from the north?

Mr. BURNHAM. No, sir.

Mr. GALLOWAY. Thirteenth street would be given up anyway?

Mr. BURNHAM. Yes, sir; streets would cross the Mall by a depressed grade, which would be a thing of great beauty, as everyone sees who rides along the Capitol grounds where such a grade exists. You look down, the hill falling away from you. It is a thing of great beauty, and so it would be with the streets coming from the Mall.

Mr. GALLOWAY. The Department in considering this location on the north side looked carefully into the question of viaducts. Of course we have studied that very carefully, and Major Symons is very sure

that our foundations there would cost more if they were on the site of the old canal.

Mr. BURNHAM. Well, foundations are handled with economy in these days in a great many ways. The concrete pile is the most direct way. If you have a deep foundation you go down with a pile—a heavy concrete pile—until you strike absolutely firm earth, and after that you build arches from pile to pile, and make a great saving in cost. I do not think that is at all a serious matter. It might cost a little money in deepening the foundations there, but I doubt if it will amount to much.

Mr. SMITH. May I ask what is the comparative cost of such a foundation as that which is being dug right out on the hillside from the solid earth, with no foundation?

Mr. BURNHAM. You can not have it built without any foundation.

Mr. SMITH. I mean actual foundation, and on the north side of Pennsylvania avenue you have solid earth. Is not the cost enormous in an extra foundation on a bad foundation?

Mr. BURNHAM. The word enormous is not the proper word to use. It might be a few thousand dollars, more or less.

Mr. SMITH. A few thousand dollars.

Mr. BURNHAM. I say a few thousand dollars. In regard to the Secretary's feeling that the treatment of the Mall should be natural instead of formal, that is a question of taste; it is a question for educated men to settle for the country; it is a question for this committee. It is a question for the committee to settle whether they would have the most beautiful thing that man can conceive or whether the park shall remain in its natural state. We do not feel that it can with propriety be left in its natural state. We do not think that in the midst of a great city, which has formality all about it, that informality should become the rule. We think with the Capitol at one end and the Monument at the other, which are the most formal things in the world, the treatment between these structures should be equally formal (pl. 3). It is not proposed by us, and never has been proposed by us, to build an avenue. It has been proposed that there shall be a great open vista, and the vista is the great architectural picture, if we may speak of landscape work as architectural. The center is to be covered with grass, like a green carpet, with narrow roadways on each side overhung by the trees, but the effect is that of a green carpet, as is clearly shown by the coloring on the map before you. (Pls. 2 and 3.)

Senator DILLINGHAM. Substantially as is represented in the pictures behind you? (Pls. 2 and 3.)

Mr. BURNHAM. Yes, sir; substantially as represented on the drawings. (Pls. 2 and 3.)

Senator NEWLANDS. Is this Mall, from building to building, about the width of the Capitol—this 890 feet—about as wide as the Capitol is long?

Mr. BURNHAM. The Mall, from building to building, is a little greater than the width of the Capitol, as it should be, the buildings forming the architectural lines which lead up to the Capitol.

Senator SCOTT. Do I understand you as advocating a 600 or an 800 foot width? (Pl. 4.)

Mr. BURNHAM. I am advocating the plan which we carefully worked out and which we believed, as your servants, after the most careful investigation on our part, to be productive of the finest results.

Senator MARTIN. What was that width?

Mr. BURNHAM. The width shown on this map. (Pl. 4.)

Senator WETMORE. Eight hundred and ninety feet?

Mr. BURNHAM. Yes, sir.

Senator NEWLANDS. Mr. Chairman, I will state that I find I have made a mistake in stating that as 800 feet in the bill. I supposed that was the width called for.

Senator SCOTT. It is virtually 800 or 890 feet?

Mr. BURNHAM. Yes, sir. I want to say once more, in order to impress it upon the committee, that it is not alone the length, but it is the great size of the Monument—nearly 600 feet high—and the Dome of the Capitol which influenced us. Things must be in proportion. If it was a short, narrow parkway it could be made 200 feet in width, but it would appear mean and insignificant in a park of the magnitude and length of the Washington Mall. If you put only two trees on each side it would be preferable that nothing be done to improve the Mall.

Senator NEWLANDS. Do you desire to say a word about the Smithsonian Institution?

Mr. BURNHAM. I was going to speak of the Smithsonian Institution and that will be the end of my statement. It can be moved. We frankly confess that our scheme would result in moving back the Smithsonian Institution so far as it now projects into the composition; that in a scheme involving many millions of dollars, if one object already in position can not be made to harmonize, we frankly confess that in our opinion it ought not to stand in the way of a grand improvement. I do not suppose there is a possibility in any city of the world of doing a thing for a capital city without destruction. In Paris, under Louis Napoleon, they destroyed entire neighborhoods, and what was the result? What did he make of Paris, and what is it to-day? All that it cost him in the accomplishment of the end—his entire work—is returned in profits from outsiders who go to visit Paris each year since the improvements were inaugurated.

The CHAIRMAN. Mr. Burnham, if the old Smithsonian building is moved, what about the Agricultural Department building? Do you argue that it ought to come on the north side?

Mr. BURNHAM. I do most sincerely. I think that large piece of ground (Pl. 2), which is entirely suitable for it, ought to be used. The only objections raised by the Department to that site are two—first, that there are lumber yards in the rear; these will pass away at once when the new building is erected. Everyone's experience demonstrates that. The second objection is the cost of the grading. Neither of these objections are at all serious. If the building is placed on the north site, it will be in accordance with the plan before you (pls. 2 and 3), and will further the making of a grand orderly system, which, as you build from time to time, will be carried into execution, so that the buildings shall not be erected in a disjointed and random manner, and the most desirable result will be attained.

Senator NEWLANDS. With regard to Pennsylvania avenue, if you will excuse me. Could this museum be put on Pennsylvania avenue also?

Mr. BURNHAM. I have not looked into that question, but I presume it could be; I do not see any reason why it should not be if the Government buys the ground or Mall triangle. The management or

arrangement of the streets would then be in your own hands, and it would be possible to recast them and make an orderly adjustment of future buildings fronting on Pennsylvania avenue. The Commission believes very strongly that the Government ought to possess this ground while it is comparatively cheap.

Mr. NEWLANDS. You have just said that the place on the north side of the vista is the best place for the location of the Agricultural Department, but I understand you that as between that location and Pennsylvania avenue near the Treasury Department you would prefer the latter. Is that so?

Mr. BURNHAM. If I could place it where I wished, I would prefer to locate it on Fifteenth street and Pennsylvania avenue (pl. 2). We considered this site at one time. We felt that it should be placed in connection with the other great governmental buildings at the best point. I mean the other buildings having to do with the Executive Departments, strictly speaking.

Senator NEWLANDS. Your idea is to crowd them all about the White House, is it?

Mr. BURNHAM. Yes, sir; just as all this ground which is shown on that plan as fronting the Capitol should be purchased and owned by the Government (pl. 2).

Senator SCOTT. What is now on the space between Twelfth and Fourteenth streets, where you propose changing for the north side?

Mr. BURNHAM. Someone else will have to answer that question for me.

Mr. GALLOWAY. Those are the proposed buildings for the Department of Agriculture. It is the ground for these buildings.

Senator SCOTT. I understand that, but what is on it?

Mr. BURNHAM. Nothing at all.

Senator SCOTT. The street is there?

Mr. BURNHAM. Yes, sir; but there are no buildings on the street.

Senator WETMORE. The lumber yards referred to are included in the proposed Pennsylvania triangle that is to be acquired by the Government?

Mr. BURNHAM. Yes, sir.

Senator WETMORE. And if this is acquired they would necessarily disappear?

Mr. BURNHAM. We think the Government should possess that land at once.

The CHAIRMAN. You, of course, appreciate the difficulties that confront us in this matter. Two buildings have already been provided for, and in a sense construction has commenced on one of them—the Agricultural building. At least, they have selected the site. Now, to carry out your plan, which commends itself highly to a great many people, it would be necessary for the Government to purchase the whole of this land south of the avenue, which the Government will probably not do this year or next year.

Mr. BURNHAM. No, sir; it will not be necessary to do that. The site on the north end of the Agricultural grounds the Government now owns. That is the site which we recommend.

The CHAIRMAN. That is, I understand, north of the proposed parkway. But in answer to a question by Senator Newlands you said you preferred that those buildings should come out on Pennsylvania avenue.

Mr. BURNHAM. We were perfectly content with the location on the north of the park vista. Senator Newlands asked me if we could not

go somewhere else, and I said certainly we can. But the location on the Mall and north B street is a perfect location for it.

The CHAIRMAN. What I wanted to emphasize was this, that we will have to eliminate from this discussion the idea of the Government's purchasing the land south of the avenue *en bloc*, because the Government is not going to do that at present.

Mr. BURNHAM. If you asked us for a recommendation we are willing to put ourselves down in writing and say that we are anxious that it should go on the north side of the Mall, and to insure you that any increase in cost because of the location would be infinitesimal.

Senator SCOTT. Is it back of that old power house?

Mr. GALLOWAY. Yes, sir. Mr. Burnham has stated, I think, that if the Agricultural building was erected in that locality those buildings would disappear immediately. That is probably a figure of speech. It might be twenty-five years or fifty years or one hundred years, during which time we would be within a stone's throw of not only houses of ill repute but of the old power house and lumber yard and all the rattle traps in the city. That is the thing that brought the matter more clearly to the attention of members of Congress than anything else, and that is all. We objected to putting those beautiful buildings right up by that ground.

Senator WETMORE. Why should you not condemn some land back of where you propose to put the building on the south side?

Mr. GALLOWAY. For the very reason which the chairman has suggested. It is very easy to condemn land, but the policy of the Government is against it.

Senator WETMORE. You assume that?

Mr. GALLOWAY. Yes, sir.

The CHAIRMAN. We have a half hour remaining. We will hear Mr. Post next.

STATEMENT OF GEORGE B. POST, OF NEW YORK.

Mr. Post. Mr. Chairman and gentlemen, I am not a member of the park commission, and know but little about the matter under consideration by the committee. I am simply an outside architect, you might say, and am present to-day simply in that capacity. Of course I have an interest in this question. My knowledge of the plans of the park commission is at best superficial. I have examined the plan and was highly impressed with the degree of skill with which the matter has been treated and in which it has been considered. I would like to say something with regard to the ultimate result. It concerns a great architecturally beautiful city—a city which it may take two hundred years to build, and I think nothing should be done at the present time that will stand in the way of the ultimate accomplishment of that result.

The problem under consideration is a very difficult one—the question of what will be the effect of distance and perspective on a grouping or arrangement of masses. I think it speaks volumes for the wonderful intelligence of the founder of his country, General Washington, that after a careful study of the situation the park commission found that nothing better could be done than to adopt substantially the scheme as conceived by General Washington and laid out by him and Major

L'Enfant. The principal element of this scheme consisted in two grand vistas, one from the Capitol to the Monument (which was provided for at that time by an act of Congress (pl. 1)), and another from the White House to the same monument.

The distance from the Capitol to the Monument is $1\frac{1}{2}$ miles. Now, I have been for forty-three years practicing architecture, and before that for quite a number of years I studied civil engineering and architecture, and during that entire period I have been trying to learn something about proportion. I think I can say positively that for a length of a mile and a half, 900 feet in width would be as small a space as could possibly, with any effect, be left for a vista or park way. I believe that it would be fatal to the whole scheme to make that park way an avenue. I think it must be a park way, as Mr. Burnham has said, a green carpet and substantial roads at the sides.

Now, gentlemen, the people of this country are beginning to be rapidly educated in matters of art. It is astonishing to see how much they know in the most remote parts of the country with regard to the art of the world, and they will be more and more insistent in their demands that the capital of this country shall be made as beautiful as it possibly can be. You gentlemen are the trustees for the people in holding this property, and I can not but think that you would make a serious mistake if you should allow any encroachment to be made on the fixed laws which seem to be almost essential in securing the ultimate proportions of the city when the time of its ultimate development arises. I have heard a good deal of talk about the expenditure of \$200,000,000 to carry out the work of the park commission. It seems to me that this \$200,000,000 might be distributed over two hundred years. It might be that time before the work is completed, and I am not sure that a better scheme than the one presented can be conceived. I very much doubt it.

I am very certain that any scheme that is conceived hereafter will have the Mall and axis properly proportioned as its main axis. When you are dealing with brick and stone, you are dealing with something of a permanent character. If you put a building on lines which ought not to be encroached on, it is with the utmost difficulty that that building can be removed. Mr. Burnham has spoken of the removal of the Smithsonian Institution. I think that sixty or seventy or ninety years from now, when the brownstone of the Smithsonian Institution crumbles to pieces, as it undoubtedly will do, when the time comes to remove it it may very well be set back behind this line. I do not believe that Mr. Burnham or any other member of this commission would recommend the immediate removal of the Smithsonian Institution for the carrying out of any scheme for the beautification of the city of Washington.

The CHAIRMAN. Right there, I presume that you understand the difficulties which beset us. In other words, to use a well-known phrase, "It is a condition and not a theory that confronts us."

Mr. POST. I understand that perfectly.

The CHAIRMAN. Now, in order to establish this park way we must legislate; we must pass a bill through both houses of Congress, and it would be a rash assumption on the part of any man to say that it could be done at the present session. In the meantime the Department of Agriculture is proceeding to erect its building, and we have no way

of issuing an injunction against them if we were disposed to do so. Now, what is the remedy?

Mr. POST. I think the remedy is to prepare some such bill as that of which I saw a draft, that no building should be built within a certain distance of a certain line drawn from the center of the Capitol to the Monument, and if on the south side of that line there was not sufficient area the building should be put somewhere else. It seems to me that that is the solution of this matter.

The CHAIRMAN. That, of course, is the modus, but those of us who have something to do with legislation understand the difficulties of doing that. However, the effort can be made, and perhaps it will be successful at this session.

Mr. POST. I know it is difficult, because we had experience of that kind in New York, when we endeavored to get legislation through, and before we had gotten the proper legislation through those skyscrapers had been built which have destroyed the beauty of the city and we have had to drop the matter.

The CHAIRMAN. Is there any other gentleman who desires to be heard?

Mr. NEWLANDS. Mr. Chairman, I suggest that the committee hear Mr. Eames.

The CHAIRMAN. There are three interests here to be heard from: The gentlemen representing these proposed buildings, who have spoken; the Institute of Architects, who have been heard to some extent, and Mr. Smith, whom I promised to give the closing fifteen minutes of the hearing.

Senator MARTIN. Mr. Chairman, I think it would be well for us to extend the time a little. This is a very important matter. It has been reported stenographically and will be printed as a Senate document. I feel that this is a matter of extraordinary importance, and I think we had better have another session of the committee rather than to hurry matters too much at this time.

Senator FORAKER. I suggest that we appoint a subcommittee to sit after the Senate adjourns to-day and have the examination proceeded with. The statements can be taken down and those of us who have to go elsewhere can read them hereafter.

Senator SCOTT. I should prefer going on next week when we could have a full committee.

The CHAIRMAN. I can not sit to-day after 12 o'clock, but I will be glad to appoint a subcommittee if Senators will suggest their willingness to sit to-day.

Senator MARTIN. I think it is necessary for us to hurry this matter because whatever we are going to do should go on an appropriation bill. I think it would be very difficult to pass a bill through both houses in any other way.

The CHAIRMAN. Senator Martin, what do you think the chances are of getting an appropriation like this through on an appropriation bill?

Senator MARTIN. I do not think there will be any difficulty about it. You, Mr. Chairman, are in a better position to do it than I.

The CHAIRMAN. My impression is, that the chances are very small. However, we will continue the hearing, and while I will be compelled to leave the session at 12 o'clock, I will appoint some other Senator to act as chairman.

**STATEMENT OF W. S. EAMES, ST. LOUIS, MO., PRESIDENT OF THE
AMERICAN INSTITUTE OF ARCHITECTS.**

Mr. EAMES. Mr. Chairman, I do not wish to occupy the valuable time remaining for the discussion of this subject, as I believe the interests of the situation have been well explained and illustrated by Mr. Burnham and Mr. Post. I can scarcely add anything to what they have said. I can, however, direct your attention to the very widespread interest in subjects of this kind which is being manifested in all parts of the country. On the Pacific coast in the city of Seattle last month I saw a most admirable and elaborate scheme for the improvement of that city. A commission has only recently performed a similar service for the city of Cleveland. Philadelphia is now in the throes of a like agitation. As chairman of a similar commission in the city of St. Louis, which was appointed by our mayor, I can say that we have undertaken to do the same thing for our city. You will find that all over this country there is the most extended interest in this subject, and I believe it is our duty as citizens and professional men, and you as the representatives of the people, to look after and be responsible for what may happen in directions of this sort and assume that responsibility and carry it out. I do not think I can add anything to the remarks that have been made, but I do express the earnest hope that this measure proposed by Senator Newlands or some similar action will be taken in order that we may not prove recreant to the responsibility which we owe to the people of this nation.

**STATEMENT OF FRANK MILES DAY, ARCHITECT, PHILADEL-
PHIA, PA.**

Mr. DAY. Mr. Chairman and gentlemen of the committee, I have been asked to say a few words with regard to the influence which the Senate committee's scheme for the improvement of Washington has had upon the people throughout the country, and especially upon improvements in various cities. I came from Philadelphia, where we are considering a very extensive improvement in our park ways and the arrangement of the river banks and of driveways, and problems of a like character. In the southern part of Philadelphia, about 2 miles to the south of our city hall on Broad street, it is proposed to widen the street greatly and to put in an avenue, I regret to say on a smaller scale than the park way proposed here, but still the seeds sown by your committee have taken root in Philadelphia, and the scheme of improvement of the southern part of Philadelphia has been put on foot. I had the honor of designing it and of putting it on paper. That scheme started without much hope of results, but it suddenly commended itself to all of the people of the southern part of the city, and I understand that at a recent election the authorization of a half million dollars was made by the people to begin this work. I think, however, that the most notable influence of your proposed improvements in Washington is that at Cleveland.

In Cleveland they have been studying for a number of years the proper relation of their buildings, municipal and national, so that an accumulated effect may be had rather than the effect of individual and scattered buildings. In Cleveland a commission of distinguished

architects has arranged a plan by which the municipal and Government buildings, involving a central station and other things, shall be placed about a great plaza, which plaza will have to be carved right out of the city—right out of the thickly built portion of the city—leading from the monument down to the lake, and that is not merely on paper; it is in process of completion. The United States court-house, which was an integral part of that scheme, is now under construction. The terminal station will undoubtedly be placed as indicated on the plans. The city hall and the court-house are condemned, and the whole proposition is now on foot. Although started before your plans were adopted, they have greatly influenced matters in Cleveland. I merely mention facts which have come directly under my personal observation. But in studying the question, taking up maps and seeing what has been done in many of our American cities, I see that many such improvements are contemplated which are generally the direct result of the influence of the plans which your committee has adopted.

I want to say, also, that I do not think your committee realizes that there is among the intelligent people of the country a most profound appreciation of these plans and a most earnest desire that they should be carried out and that the thing should be put definitely on its feet and should be established as a means of procedure for the improvement of Washington. No one expects that much of it will be done at one time, but if the plan can be adopted it will give the most profound satisfaction to a large body of intelligent citizens in all our principal cities. It would be easy, if it were worth while, to bring to you testimony from twenty societies of all kinds in Philadelphia testifying to the interest which they have in this matter and the reasons which actuate them in desiring that it should go through—not merely artistic societies, but trade societies and associations of that character.

Senator NEWLANDS. As I understand it, Mr. Eames, you claim that these plans, designed for the park improvement of the city of Washington and the placing of buildings, etc., have had an educational effect upon the entire country?

Mr. EAMES. They have been a very great object lesson to the whole country. They have educated the people, and they have educated the provincial architects—the architects of smaller cities. The whole profession looks upon them as a great design and a wonderful performance.

Senator NEWLANDS. There is a growing tendency, is there not, Mr. Day, to elaborate plans for towns and cities which are to be gradually worked up, I suppose, covering one or two generations, just as you would elaborate a plan for a particular building, is there not?

Mr. DAY. It is felt that any other procedure would be utterly foolish and futile. Our cities are growing so overwhelmingly that if we do not give thought to the future we are left in the lurch and then we have to go back and carve out space at enormous cost. New York has been negligent of its affairs, and within the last four or five years she has had to go into her congested districts and has spent about \$9,000,000, I think, on only about 9 acres, in carving them out.

Senator NEWLANDS. You think it is better to lay out beforehand on a full and adequate plan, even at considerable expense, rather than to trust to incidental development from year to year?

Mr. DAY. Yes; that is better in all relations of life, and especially with regard to cities.

Senator NEWLANDS. Mr. Chairman, I would like Mr. Post to say a

few more words with regard to foundation. He is an architect of large practice in New York.

The CHAIRMAN. Very well; let Mr. Post proceed.

ADDITIONAL STATEMENT OF GEORGE B. POST.

Mr. POST. Mr. Chairman, I would like to say a few words with regard to the matter of foundations on swamp land. Until very recently it might have been a serious question, but Yankee ingenuity has led to the suggestion of constructing foundations with pneumatic caissons, which have enabled us in the city of New York to properly construct these foundations. New York, as you know, has a tendency to slide off into the river. The new method has enabled us without any great expense to build a perfectly sound foundation by sinking what is known as the pneumatic caisson. It has removed the entire difficulty of providing wood foundations in swamp lands. In New York, if you would like to know something about it, we find that the expense, is three or four thousand dollars a caisson, which involves but a small additional expense where you have to go down from 50 to 90 feet to get a foundation.

STATEMENT OF J. C. HORNBLOWER, ARCHITECT, WASHINGTON, D. C.

Mr. HORNBLOWER. Mr. Chairman, I do not know that I have anything to say upon this subject. I think the ground has been fully covered. With regard to foundations, I know something about the condition at the foot of Tenth street, where the museum is to be built. There would be no special difficulty in providing a foundation in that location. There are other parts of the city north of Pennsylvania avenue, upon which I have built where the conditions are far more unfavorable.

Senator NEWLANDS. Please point out the location of the National Museum, which you have referred to on that plan?

Mr. HORNBLOWER. It is directly opposite the Smithsonian Institution, on the north side of the Mall, between Ninth and Twelfth streets (pl. 2) [indicating on map]. This is the Smithsonian reservation in the Mall, as I understand it, from B street north to B south and from Ninth to Twelfth streets, and the Museum itself will center on Tenth street.

Senator NEWLANDS. It is immediately to the east of the site suggested by this Commission for the Agricultural Department, is it not?

Mr. HORNBLOWER. Yes, sir; immediately to the east. I do not see any reason why the foundation condition should not be the same. However, it is impossible to predict with certainty until borings have been made. We have had test pits made on the site of this Museum and have met with no special difficulty.

Senator NEWLANDS. What have you to say with reference to the preservation of this vista of 890 feet?

Mr. HORNBLOWER. I do not know that anything can be said in addition to what has already been said by the gentlemen who have preceded me upon this question.

The CHAIRMAN (Senator Dillingham in the chair). That is to say, you fully agree with them?

Mr. HORNBLOWER. Yes, sir. I do not see how any exception can be taken, except there be a shortsighted policy of assuming that 200 feet on which it is proposed to locate the Agricultural building is the only ground on which that building can be placed. I see no reason for believing that, and I see no reason why it should not extend across B street, which is a street of unimportant character. It would not cost a vast sum to increase that area. The ideal place, in my judgment, for the Agricultural Department is nearer the White House.

Senator NEWLANDS. With reference to the extension of the National Museum, I understand that extensions will be required by the National Museum within a reasonable time, will they not?

Mr. HORNBLOWER. That depends on what the Museum is going to amount to. Mr. Burnham has plans for a museum in the city of Chicago which will be several times larger than ours.

Mr. BURNHAM. It is 1,100 by 600 feet.

Mr. HORNBLOWER. But the whole ground included in that area is covered. It is not all covered in our Museum.

Senator NEWLANDS. I understand that they have enough now to fill the building, but what about additions?

Mr. HORNBLOWER. I understand there is enough material collected, which will be sent to St. Louis on condition that it go afterwards to the National Museum, and this material, which is a special exhibit—a geological exhibit—is enough to fill the present Museum. Then the War Department and the Navy Department have both made the National Museum the recipient of their collections, which are constantly growing. So that it would seem—although I have no authority to make any statement in the matter—but it would seem to me, if the Museum is to be compared with private museums in the cities of Chicago and New York, beyond question it will require in the future additional buildings. As to the probability of future growth I can only refer to the words of Dr. G. Brown Goode, the first director of the National Museum, that “A museum that is finished is a museum that is dead.”

Senator NEWLANDS. In case those additional buildings are constructed, could they be extended, with proper architectural effect, out toward Pennsylvania avenue and front on Pennsylvania avenue in case the Mall triangle is acquired by the Government.

Mr. HORNBLOWER. I think that would be a suitable site for additional museum buildings.

Senator NEWLANDS. Let me ask you another question: If that Mall triangle is acquired for the purpose of public buildings is it better that it should be acquired piecemeal, block by block, or as an entirety, so as to readjust the streets and give them a parklike appearance?

Mr. HORNBLOWER. The streets in that triangle are of secondary importance. They are inferior, and the policy of buying one square bounded by streets that will not exist twenty years hence, and putting the municipal building at an angle with the avenue, as if the avenue did not exist and was not a great thoroughfare, is, I think, an unwise policy. I believe the whole ground should be at once acquired and the thoroughfares which will be needed from north to south should be retained and the other streets obliterated, the future buildings to front on Pennsylvania avenue.

Senator NEWLANDS. And on the line of Pennsylvania avenue?

Mr. HORNBLOWER. Yes, sir.

Senator NEWLANDS. Does present architecture agree with the proposition of building block by block, or does it regard it as injurious?

Mr. HORNBLOWER. From an architectural point of view it is unwise.

STATEMENT BY CHARLES F. M'KIM, ARCHITECT, NEW YORK.

Mr. McKim. Mr. Chairman and gentlemen of the committee, I shall not trespass upon you for any length of time, and I feel that what has been said has been so adequately said that your patience should not be further taxed by any remarks from me. I may say, however, that with regard to this enterprise, it has been fully explained by the chairman of our commission, who has a full knowledge and acquaintance with the subject. I wish to call attention to the models. The models testify in an obvious way. They are an ocular evidence which is more convincing than any amount of speech. So I would urge, if the plans are to stand, it will be on their merits, or fall, according to their value which shall be found after the arguments which have brought them about have been sifted. I think the study of the plans, and especially a study of the models, will be absolutely convincing to the committee and should go far toward giving them and other Senators and Representatives a better understanding of what is proposed. The model may be seen in the Congressional Library, only a step from the Capitol.

The CHAIRMAN. I think that has been examined by all the members of the committee.

Mr. McKim. It is very essential at this time, especially, that the profession of architecture should not remain idle with respect to the future development of the park system of the national capital. The plans of the commission appointed by the Senate, through the efforts of the American Institute of Architects, have already been made familiar in the public press and by illustrated lectures in all the principal cities and have made a strong appeal to the national pride. Educated people everywhere have come to understand the scope of the work and to sympathize with it. Throughout the country, especially in Buffalo, in Cleveland, St. Paul, and as far west as Seattle, the example has served to quicken, strengthen, and inspire each city to develop and to make the most of their natural advantages. Moreover, in England the interest in this undertaking has been very great.

STATEMENT OF W. B. MUNDIE, ARCHITECT, CHICAGO, ILL.

Senator NEWLANDS. As I understand, you are employed by the municipality in Chicago in connection with their architectural work?

Mr. MUNDIE. Yes, sir; part of the time.

Senator NEWLANDS. And you are also an architect in general practice?

Mr. MUNDIE. Yes, sir.

Senator NEWLANDS. Will you be kind enough to give your opinion regarding this proposed vista from the Capitol to the Monument?

Mr. MUNDIE. I come to Washington from the West to represent our architectural societies which have studied this matter. Lectures have been given; the matter has been studied a great deal all through the West, and especially in Chicago by three associations there, and we would dislike very much to see the plan destroyed (pl. 4). We look

upon it as a national heritage from L'Enfant and Washington, and we think to cut into that line now would be doing something that would be irreparable, and you never would get back to the beauty and the grandeur of this work as proposed in that grand parkway. It is not an avenue (pls. 2, 3, and 4); it is a parkway which is shaded from the Monument to the Capitol by trees—shaded all the way. It would take some time for its completion, but this whole thing is going to take time.

Now, in a municipal way, in Chicago we have similar topics for consideration; Mr. Burnham might have touched on that because he is directly connected with it. The museum he speaks of is to be placed in the center of a grand park costing an enormous sum of money. It is partly filled now so as to come under the south park system. Mr. Olmsted is also connected with this enterprise. He is now also connected with a series of small parks throughout the city for municipal improvement, mainly brought about by this system of parkways which originated in Washington. It is having its influence, as Mr. Eames has said, all over the United States.

Now, to do away with that Mall, or cut it down until it becomes a mere shoestring a mile long between the most formal structures which we have, would be a step backward, and other cities would feel that while they are going ahead, Washington is going backward. We wish to consider the Mall as the starting point while the present improvements are being made, and not encroach on the line of 890 feet. (pl. 4.) In the West I know the people are anxious to see these things carried out.

Senator NEWLANDS. You are on the executive committee of the American Institute of Architects, are you not?

Mr. MUNDIE. Yes, sir.

Senator NEWLANDS. Mr. Chairman, I would like to hear from Mr. Olmsted, the landscape architect.

**STATEMENT OF F. L. OLMSTED, JR., LANDSCAPE ARCHITECT,
BOSTON, MASS.**

Mr. OLMSTED. Mr. Chairman, I think I need add but little to what has already been said. Of course Mr. Burnham has expressed the views of the members of the commission fully and accurately. After careful study we feel that the width selected is (pls. 2 and 4) requisite whenever in the future the project is carried out, and to permit the advancement of a building line (pl. 4) at the present time will prevent the ultimate execution of the project. If that space is not encroached upon it remains open as a possibility for the future. I might add one point which has not been emphasized, namely, that in view of the commission this space is a park space.

The statement has been made again and again that it is a project for an avenue, for a street, and for a boulevard. It has been stated many times that it is a project for a new street to take the place of Pennsylvania avenue as a main thoroughfare. That has never been the conception or the idea of the commission. We hope that it may be and remain a great park space, and our view is that the space should not be encroached upon by buildings; neither are we in a hurry to get buildings erected on the north and south. In the original project it was a park space, and buildings were shown along the edges of the park in

the original L'Enfant plans (pl. 1) as incidental to the great open area, and the commission takes that view at the present time.

Senator NEWLANDS. I do not understand it, then, to be the design of the commission that those buildings along the edges of this open park space shall be immediately constructed as against the construction contemplated on the south side of Pennsylvania avenue?

Mr. OLMSTED. Not in the least. The view of the commission is simply that when the buildings are erected along the sides of this open space, as suggested in the original plan (pl. 1), they should not come far enough forward to creep (pl. 4) into the open parkway or destroy the vista.

The CHAIRMAN (Mr. Foraker in the chair). Your idea is, as I understand it, that 890 feet in breadth is as narrow a space as comports with the dignity of the situation.

Mr. OLMSTED. Precisely; yes, sir.

Senator NEWLANDS. It has been often stated as an objection to this plan that its execution will cost \$200,000,000. What do you say with regard to that?

Mr. OLMSTED. I do not know where the estimate of \$200,000,000 came from. If \$200,000,000 refers to the cost of the buildings sketched on our plans, which may in the future occupy the various positions in connection with this project I would say that it was a striking underestimate.

Mr. F. W. SMITH. Especially including the terraces, etc.

Mr. OLMSTED. Including simply the public buildings for which there is room within the territory referred to in this plan.

Senator NEWLANDS. Including the Mall triangle.

Mr. OLMSTED. Including the Mall triangle. All the public buildings to be erected in the city of Washington during the next two centuries will undoubtedly cost more than \$200,000,000. But as to the cost of planting four rows of elm trees down each side of the Mall, the cost is, relatively speaking, a trifling one. The point which I can not emphasize too strongly and which the commission feels to be a vital one is simply that the park space should not be encroached upon by public buildings.

Senator MALLORY. I was not here at the beginning of the session, and I desire to ask if it is contemplated that there should be a driveway of any kind for vehicles in this vista space? I notice on the plans that there are side roads on each side of the central line. Is it contemplated that there should be vehicle driveways?

Mr. OLMSTED. It was contemplated that there should be a narrow roadway at the edge of the parkway on either side of the central line.

Senator WETMORE. Will you please indicate just exactly where it is?

Mr. OLMSTED. I think it is shown clearly in the perspective view before you (pl. 3). The lawn shows along the center with roadways on either side. Those roads, if I remember correctly, are shown on the commission plan as 35 feet wide.

The CHAIRMAN. Please point it out on the plan which has been submitted by Mr. Burnham.

Mr. OLMSTED. There is a broad parkway in the center and a road next to the tree. The roadway is against the trees on one side, the foliage overhanging it (pl. 3).

The CHAIRMAN. The road on one side of the Mall will be in the sun and the other part in the shade, according to the time you travel?

Mr. OLMSTED. Precisely so. The precise width or character of the roads or paths which may be needed within this district, as shown upon the plans of the commission, the commission regards as matters of detail.

Senator MALLORY. Of course.

Mr. OLMSTED. The fundamental point upon which we feel a very firm conviction is as to the total space which ought to be kept free from building in order to permit the necessary width in the middle. (Pl. 4.)

The CHAIRMAN (Senator FORAKER). I think we understand you.

Mr. SMITH. Are there not roads at Bushy Park covered by trees.

Mr. OLMSTED. No, sir. Bushy Park is out in the center with a broad turf space on either side of the trees.

Senator NEWLANDS. Mr. Olmsted, your firm was engaged with Mr. Burnham, Mr. McKim, and Mr. St. Gaudens in the World's Fair work, was it not?

Mr. OLMSTED. Yes, sir.

Senator NEWLANDS. And your occupation is that of a landscape architect?

Mr. OLMSTED. It is.

Senator NEWLANDS. I wish to ask you about the work at Boston. Was that work attended to by your firm?

Mr. OLMSTED. Yes, sir. The work is that of the Metropolitan Park Commission of Boston, which has been in the hands of my firm, and since 1896, under my personal direction.

Mr. SMITH. Do you not think, Mr. Olmsted, that the composition of that Massachusetts Park commission of five gentlemen of leisure, of independence, of affluence and intelligence, giving their undivided attention to it, is a model for the accomplishment of this work? Is it possible for a committee like this—crowded as we know it is with various matters—to properly consider a scheme like this which is to last for all time?

The CHAIRMAN. We will have to put an end to this sort of discussion. Mr. Olmsted will hardly want to express an opinion as to the competency of this committee.

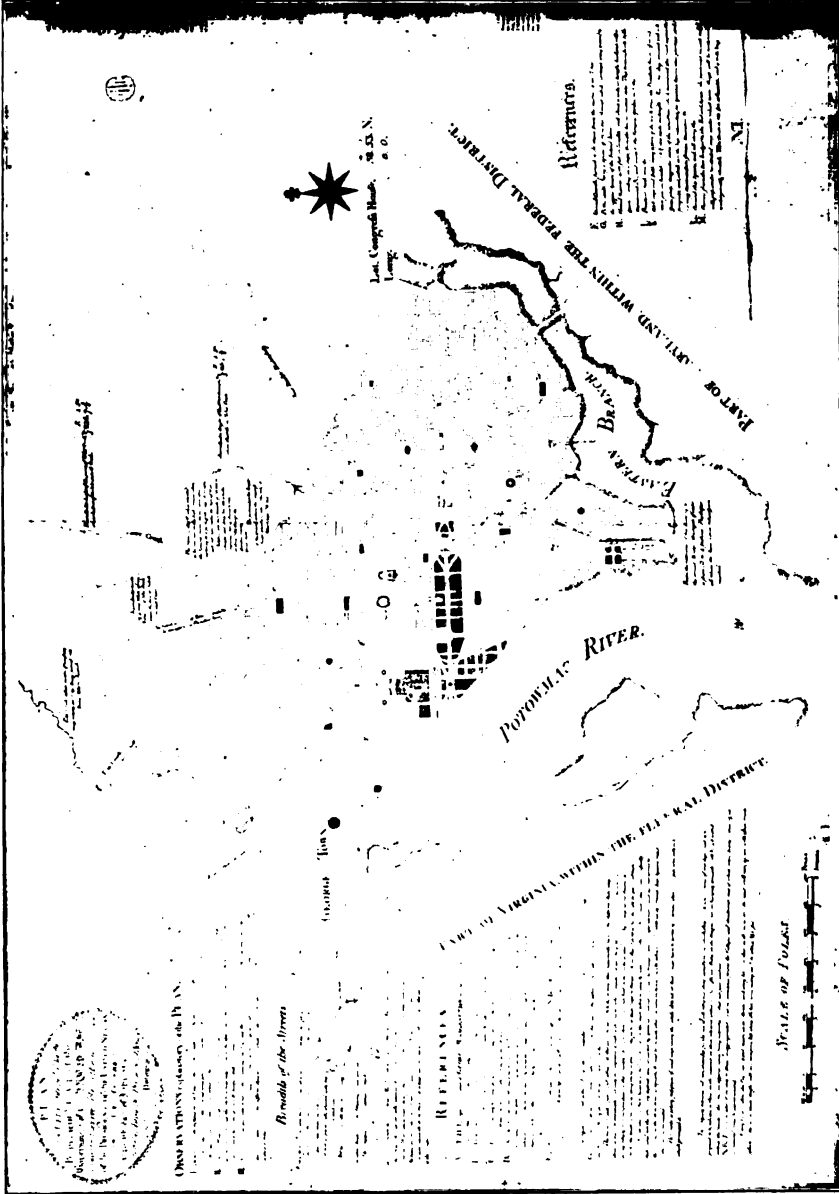
Mr. SMITH. I mean the opportunities of this committee; I did not refer to the competency of this committee. That park commission he is familiar with and he can well judge how effective it was. Senator Hoar has introduced a bill precisely to that effect, and I think it is before this committee now. I think it would be well to have Mr. Olmsted's opinion as to the scheme of the Massachusetts Park commission.

Mr. OLMSTED. That commission has been an extremely efficient one.

STATEMENT OF THOMAS M. KELLOGG, ARCHITECT.

Mr. KELLOGG. Mr. Chairman, as representing the architects of the Agricultural building, I would like simply to add a few words of explanation, which Doctor Galloway did not do as plainly as I should have liked him. We have, while not absolutely protesting against the location on the south side of the Mall for these buildings—still we have in the strongest way possible favored the north side for the very practical reason that we have more space, and as architects of the buildings we feel that we can make the north side thoroughly presentable and

PLATE 1.



NO. 61.—L'ENFANT MAP OF WASHINGTON (1791).







thoroughly feasible. I think after the question sifts down to the question of this Mall project, it is a question of locating these Agricultural buildings so that they will not interfere with the best and latest scheme that has been considered. That is the keynote of the whole situation.

Now, if we can convince a Congressional committee—I think we have already the Senate with us—that the north side of the Mall is a feasible place to locate these buildings, it will not be necessary to go further into the question of the Mall project at all. As architects of the buildings, we feel that it is perfectly feasible to place them there and on the south side. We would possibly prefer to put them there for some reasons, but even with the limit of 600 feet we are crowded for space. We can not get the architectural effect with the 600 feet that we can with the 800 feet on the north side of the Mall. Therefore I think that we would get at the question by raising the ground on the north side and placing the buildings on terraces and thus overcome the question of the matter of low ground, and we would have every advantage in placing the building on the north side without regard to the scheme of the Mall project.

STATEMENT OF AUGUSTUS ST. GAUDENS, SCULPTOR.

Mr. ST. GAUDENS. Mr. Chairman, I have very little to say except to indorse emphatically what has been said by my confreres on this commission. I wish to ask that if any work is done by another commission, nothing should be done unless by a commission of professional men so as to obviate the spreading around of public monuments haphazard as is done in this city and New York. If Pennsylvania avenue should be occupied—and that block particularly—it should be studied under the same conditions that the plan before you has been studied. (Pls. 2 and 3.)

The CHAIRMAN. The real question before us, which neither you nor Mr. McKim had touched upon, is the one with regard to the narrowing of the space between the Capitol and the Monument, and whether that can be done without great and irreparable injury to the future beauty of the Mall.

Mr. McKIM. Mr. Chairman, I think we are a unit on that point, that it would be an incalculably fatal step destructive of a great composition. It is a matter of national and not of local importance.

Senator MALLORY. To narrow it from 890 feet?

Mr. McKIM. Yes, sir; by an inch. We need width more than length. In the language of Lord Elverson—I am quoting Mr. Root—"rather," he said, in the Canadian controversy, "rather would I lie down on the floor of this court and die first." That was not in passion, but in conviction. We have studied this enterprise very carefully, and have given our time and thought to it, and we are firmly of the opinion that a greater rather than a less width is absolutely essential, and that not by a single inch should it be narrowed. (Pl. 4.)

Senator NEWLANDS. I wish to ask if L'Enfant's plan (pl. 1) did not involve a wider vista than this plan?

Mr. McKIM. Yes, sir; by 100 feet.

The CHAIRMAN. The committee will now hear Mr. Franklin W. Smith for fifteen minutes, as promised.

STATEMENT OF MR. FRANKLIN W. SMITH, PRESIDENT OF THE NATIONAL GALLERIES COMPANY.

Mr. CHAIRMAN. You and myself are aware, as no other individuals in this room are aware, of the intensity of feeling with which I accept your invitation to speak for fifteen minutes. I unfold here a brief, printed June 30, 1902, in explanation of this allusion. It has been held secretly, meanwhile. It is an argument for open competition from the entire country in plans and suggestions for improvement of Washington.

In 1900 I completed Senate Document 209, Fifty-sixth Congress, first session. It embodied study, travel, and labor during fifty years of my life with "Conclusions in Designs, Plans, and Suggestions for Aggrandizement of Washington." Expenditure in their promotion began in 1900 in my Prospectus for National Galleries, has since been continuous. It has been contributed by a widowed sister in Boston in total of more than \$52,000, equaling that drawn for the park commission from the contingent fund of the Senate. I have contributed toward said designs and suggestions a larger amount. The Halls of the Ancients for their illustrations inclose an outlay of my personal labor, results of travel, and disbursements that \$100,000 can not duplicate.

I stand here to-day as the Dreyfus of the civil war, with a history upon its records closed by the action of Lincoln at the threshold of his death for my deliverance. That conflict with revengeful conspiracy of high officials in the Navy Department for my exposures left little of earnings from early business activities.

I now express not too forcibly my convictions as a citizen that upon this committee devolves a monumental and complicated responsibility that can not be discharged by gentlemen burdened, like yourselves, with multifarious affairs.

One hundred and fifty minutes are assigned to-day to this hearing. One hundred and thirty-five minutes have been appropriated by the park commission and professional associates in advocacy of their plans. I gave notice of a plan as elaborate and more expensive to me, personally, than these before the committee were to the United States, and was advised not to bring it, as I should have no opportunity to explain it. I mention this as conclusive evidence that the resolution introduced by Senator Hoar, renewed from 1900, of a commission, after the precedent of Massachusetts, of men of leisure and affluence, is a necessity for final judgment upon great plans for the national capital to be forever worthy of the nation.

Document No. 209, above mentioned, was the first official recognition of the suggestions of an initiative plan for the improvement of the capital. As stated in the above exhibit, it was withdrawn by Senator Hoar upon a request to make room for the Commission of three here present. A competition from the genius, intelligence, and patriotic interest of the people of the United States was expected to be invited. It would have been eagerly contributed. My voluntary plans, not here to be seen for lack of time, are the only result. Paris demanded fifty plans before those of Baron Haussmann were accepted. Recently for a monument to Bismarck, in Hamburg, 220 designs were presented. In Senate debate upon the hearing for the memorial

bridge, it was admitted that a great mistake was made in that only one set of plans was invited. Certainly, it is apparent that in future it will be recognized as a like, but greater, mistake if now, upon the vast plans demanded for a national capital the ideas of three men, no matter who they are, should be fixed this afternoon as a finality.

At the time of this appointment I read of the Commission, "behind spanking bays," riding over the hills about Washington. For fourteen years, gentlemen, there might have been seen, at intervals, an old man winding afoot through this region, for vantage points of vision on the hilltops at the north, or at Prospect Point of the insane asylum on the south, coursing through the Mall and among the weeds of Potomac Park. He studied the topography, the drainage, the uncomeliness and was delighted in imaginations of the splendid possibilities of this capital. He had been familiar with renovations of chief cities of Europe; had walked around the ramparts of Hamburg and Frankfort-on-the-Main in 1851, afterwards made luxurious boulevards in a single decade. He had been absolutely familiar with the reconstructions of Paris, at an expenditure of \$200,000,000 in sixteen years, by residence and frequent visits therein. He had seen miles of squalid streets, pestilential quarters, labyrinths of crime, recreated in magnificence at a profit—pray, mark you, Mr. Chairman and gentlemen, at a vast profit. He had seen the same renovations in Berlin, Bologna, and Rome. He had analyzed the three volumes of Haussmann's Memoirs, which vindicated his prediction that—

"the prosperity resultant from great public works projected, would from itself give birth to sufficient resources to assure the extinction of expenses incurred for the works."

Mr. Chairman and gentlemen, those historical and materialized precedents led to my conviction, based upon indisputable facts and figures, that the only proper scheme for the aggrandizement of Washington should, in scale, in enterprise, and in grandeur, not merely equal examples cited, but vastly surpass them. To vindicate this conviction I herewith submit conclusions in Senate Document No. 209, revised and illustrated in No. 1 of the Washington Magazine, as an essential addendum to be published with this argument, viz, that no scheme for the improvement of Washington should have consideration that does not present as primal necessities—

1. Embankment of the river flats that noxiously penetrate the atmosphere and hideously deface the aspect of Washington.

2. Redemption by reconstruction of Pennsylvania avenue from its shabbiness.

If your committee will secure provision by legislation for expenses of surveys and computations, they will prove that Pennsylvania avenue can be splendidly aggrandized from its slumdom at a profit.

Mr. BURNHAM. I must ask you to correct your statement there. This scheme, which you refer to as the park commission scheme, distinctly and emphatically recognizes that the Government shall buy and own at once, or as soon as possible, all of the ground north of the Mall.

Mr. SMITH. I understand that; but I maintain that the first step should be to redeem Pennsylvania avenue entire, north and south sides. Your model proposes to leave a market midway in permanence; there is no suggestion even of a removal. Furthermore, your schemes are

presented as foreshadowings for a distant future, as has been said this afternoon, "to come along in a hundred years." I quote the gentleman's own expectations with reference to the elaborate Mall plan, "Nothing immediate." Mr. Chairman, can not Washington, with double the wealth of France behind it, in ten years make wise outlay of \$100,000,000, when Paris spent \$200,000,000 in sixteen years, an investment that paid for itself and upon which the travel of the civilized world pays perpetual dividends?

The present deliberations of the park commission and of this committee propose buying the low wet land on the south side of Pennsylvania Avenue by piecemeal. Not a suggestion has come from anybody, but myself, to purchase the north side, with exception of those structures which can be merged in accordant façades.

I submit the following propositions are immediately in order, because the purchase of two squares, as proposed, on the south side of the avenue for the Agricultural and Commerce Departments, will at once enhance the value of every foot of ground on that side of the avenue. *An intention announced of national purchase of the south side of the avenue will vastly enhance also the value of the north side. If the money of the Government brings this betterment, why should not the value of the betterment be returned to the National Treasury that secured it? This was the policy of Paris. Witness the Boulevards Haussmann, Malesherbes, Sebastopol, St. Michel, and others; miles and miles in length; but this is arguing it from a merely money point of view.*

Another generation will not pass before the parsimony of a Congress that can vote \$400,000,000 for war and leave the north side of Pennsylvania avenue to be a perpetual hodge-podge will appear pitiable.

THE CHAIRMAN. What do you mean by Pennsylvania avenue?

MR. SMITH. Both the north side and the south side thereof, west of the Capitol to the White House.

SENATOR DILLINGHAM. What is meant by the word "redeem?"

THE CHAIRMAN. The question has been raised, Mr. Smith, as to the significance of your use of the word "redeem." Do you mean that the Government shall purchase the north and south sides of Pennsylvania avenue and demolish the buildings?

MR. SMITH. Yes; with the exception of three, the New Willard, the Raleigh, and the Star Building on the north, and the colossal, unclassical infelicity of the post-office on the south side. It is not aligned, as it would have been in Paris, with Pennsylvania avenue. It will long rear its mediæval tower askew with everything adjacent. I mean for these works to be prosecuted by a commission after the precedent of my glorious old State of Massachusetts, as proposed in the bill of Senator Hoar; referred to your committee in 1902, and withdrawn at request of Senator McMillan to clear the track for this park commission of three. It is now renewedly referred to your committee. Others beside myself await eagerly your action.

In 1892 three commissioners were appointed by the legislature of Massachusetts to report at the next session an act appointing a metropolitan park commission to hold office for seven years, till 1900. They were to serve without pay. They were to make annual recommendations, asking appropriations. These were always granted. In 1900 they resigned, submitting a final report of their labors. They had

provided parks for 36 cities and towns; they had purchased 9,279 acres of forest, seashore, and river bank, connected by 17 miles of parkways, of which 12 had been constructed and opened for use. They condemned and parked the banks of two rivers, protecting them forever from impurity, and turning them into pleasure grounds and delightful promenades.

Senator FORAKER. Can you tell us just what you mean by redeeming Pennsylvania avenue?

Senator SCOTT. Do you want to tear the houses down, or what do you mean?

Mr. SMITH. Yes; decidedly and plainly. Here is a photograph from Pennsylvania avenue that I had taken in 1891 [exhibiting photograph]. It is 13 years worse to-day. There [indicating] is the block with which I would replace this slum, just as they did in Paris, by miles, at immense profit. Such properties, if offered by the Government at auction, would have competition for ownership from capitalists of the world.

The CHAIRMAN. Would you have the Government go into that?

Mr. SMITH. Assuredly, as I have stated by a commission appointed, without pay, as was done in Massachusetts. They came every year to the legislature and said, "We recommend that so much be spent next year, here are our plans," and Massachusetts voted "Yes" overwhelmingly. Not a dollar was spent without legislative approval, and the proudest results were accomplished.

Mr. Chairman, I plead for porticoes for Washington as they had in Antioch, Athens, Palmyra, Persopolis, and for miles in Rome. They should range the banks of the Potomac. Then thousands can walk under their delightful shelter or above them, in air and sunshine when desired, as did citizens of the ancient world.

The plate of "Pennsylvania Avenue Redeemed" herewith displays them along Pennsylvania avenue bordering the park, like the gardens of the Tuilleries in Paris.

Consider the location of the proposed costly expenditure of marble terraces, etc. Expansion of Washington is now and to be at the north. Where are your fine carriages going hereafter? Drives of elegant pleasure of the future will follow Rock Creek Park and slightly picturesque elevations northward. It was attempted to turn London's population out of the Strand upon the Thames embankment. It was a failure. The embankment is vacant to-day compared with crowds that pour along the Strand. So it will be with Pennsylvania avenue hereafter.

Those white, refracting marble terraces depicted by Guerin will be abandoned for shaded roadsides in the suburbs. I said to the supervising architect, "They are very hot." "Yes," said he, "they are very hot." I thought I would have been sunstruck in the Mall on the 15th of June. Now, it is proposed for a vista to cut away those magnificent trees and to destroy a park which ought to be thrown open to the laboring classes of the population on that side of the avenue, with playsteads, free turf grounds for children, gymnasias for youth, sheltering pavilions for tired workers and old age, as on the Charles bank in Boston. (See Doc. 209.)

Mr. BURNHAM. It is not the intention of the park commission that a single one of those trees shall be destroyed, but that they shall all be moved into their proper places. Not one of them is to be destroyed.



Rear of premises at the northeast corner of Pennsylvania Avenue. The estate is before the Naval Monument and entrance to grounds of the Capitol. Photo for F. W. Smith, May, 1891. Thirteen years worse in 1904.



DESIGN FOR REPLACEMENT OF THE ABOVE.

Notice two tiers of projected arcades—esplanades above and a Roman solarium (roof garden). The outlook therefrom over porticoes of the south to enlarge the Park, in place of present slums, will far excel that from the inclosed arcades on Rue Rivoli, Paris, across to the Tuilleries gardens.

See Perspective of Pennsylvania Avenue Reconstructed: Union Park, Washington and Lincoln Obelisks; the Plaza ranged by Pylons and Lotus Columns of Karnak.

337
 Mr. SMITH. True, they are to be removed for a vista. The vista from the Capitol to the Monument will be magnificent. It should be preserved; it should be aggrandized, lifted from the ground level to an elevation. How? Not by cutting a broad, hot sward through an existing grove and planting a mile and a half of "tapis vert," with signs "Keep off the grass." We can find an expedient from the magnificence of Rome.

Span that park by a double-storied columnar pavilion, as seen in this frontispiece, surmounted by a roof garden. From its roof garden, the magnificence of the Capitol and the Monument would be enhanced by an effective angle of vision. The structure would be grandly ornamental (see the illustration herewith). But more! It would substitute for the "tapis vert," the exclusive and luxurious conception for a monarch, 60 acres of happy ramble for labor and its offspring; delectable, airy outlooks for the people; a splendid architectural substitute for what New York now builds upon its piers for the poor along the docks on the Hudson. It will add acres of roofed porticoes and sunny esplanades.

Gentlemen, your legislation is for a Republic. Its types of beneficent enterprise should not be drawn from the tapis vert of the palace of Versailles and other of the amazing extravagances of the grand monarch, Louis XIV, who said, "I am the state."

In twenty years he spent \$200,000,000 on a sumptuous palace—a sum equal to all the cost of the renovation of Paris; 30,000 soldiers were employed. A tapis vert, sacred from the feet of the people; vast, superb stables, marble courts, etc., were massed for his royal delectation.

Versailles was not an appropriate inspiration to the Commission, for the rustic, free, enjoyable Peoples' Park that will be rightfully claimed by tired labor in its environment at South Washington.

The CHAIRMAN. Mr. Smith, your time has expired.

Mr. SMITH. Yes, my fifteen minutes; but Mr. Burnham had thirty minutes. I will only add that I desire to invite the members of this committee and other members of Congress to the lecture hall of the Halls of the Ancients on any evening that may be convenient, and I will be glad to give, with stereopticon illustrations, my conceptions of what I think is desirable in the way of improvements of the tract from the Capitol to the Naval Observatory.

Senator DILLINGHAM. Mr. Smith, how broad would you make this area between the Capitol and the Monument?

Mr. SMITH. I have not dwelt particularly on that, though I have covered a great many points in the Washington Magazine. My own conception of it—and here let me say that I hope you will not think—

Senator DILLINGHAM. Just answer the question, please.

Mr. SMITH. I plead that everybody may bring in their suggestions. I would not cut a track through there now. I would leave it to nature, as it is.

Senator DILLINGHAM. How much would you have preserved from encroachment by public buildings? That is the point.

Mr. SMITH. I will answer you. My whole theory as to public buildings is to clear the south side of Pennsylvania avenue of buildings and put them on the north side. It is very bold and far beyond any conception that has yet been suggested. I say that that swamp is not a proper foundation for any building.

338

Massachusetts bought several of the costliest residences on Beacon Hill and destroyed them to add to the State House Park. I think the bill (copy of which I have seen) appropriated over \$2,000,000. These and other such facts are examples for the United States of America.

Senator DILLINGHAM. Would you allow the encroachment of buildings within 400 or 450 feet of the center line from the Capitol to the Monument?

Mr. SMITH. I want to see the triangle south of Pennsylvania avenue absolutely condemned and wiped out and added to the park.

The CHAIRMAN (Senator Foraker in the chair). If there are no other gentlemen who desire to be heard, the committee will adjourn.

Senator NEWLANDS. Mr. Chairman, I desire to ask if we will be allowed to insert in the record any data that may be desirable, such as letters from architects and artists and associations. There may be something that we will wish to put in hereafter, but it will be brief.

The CHAIRMAN. If it will not be voluminous and there is no objection by any member of the committee, that permission will be granted.

There was no objection.

Thereupon the committee adjourned.



the landing places for its commerce. They receive the etc. Thence it is teamed across the Mall for distribution

Beneath is a sunken roadway for the motley transporta-
 sheltered promenade. In the center a section with roof

lotus columns.

ADDENDA NO. 1.

A PERISTYLE SHOULD BE ON PENNSYLVANIA INSTEAD OF A MARKET.

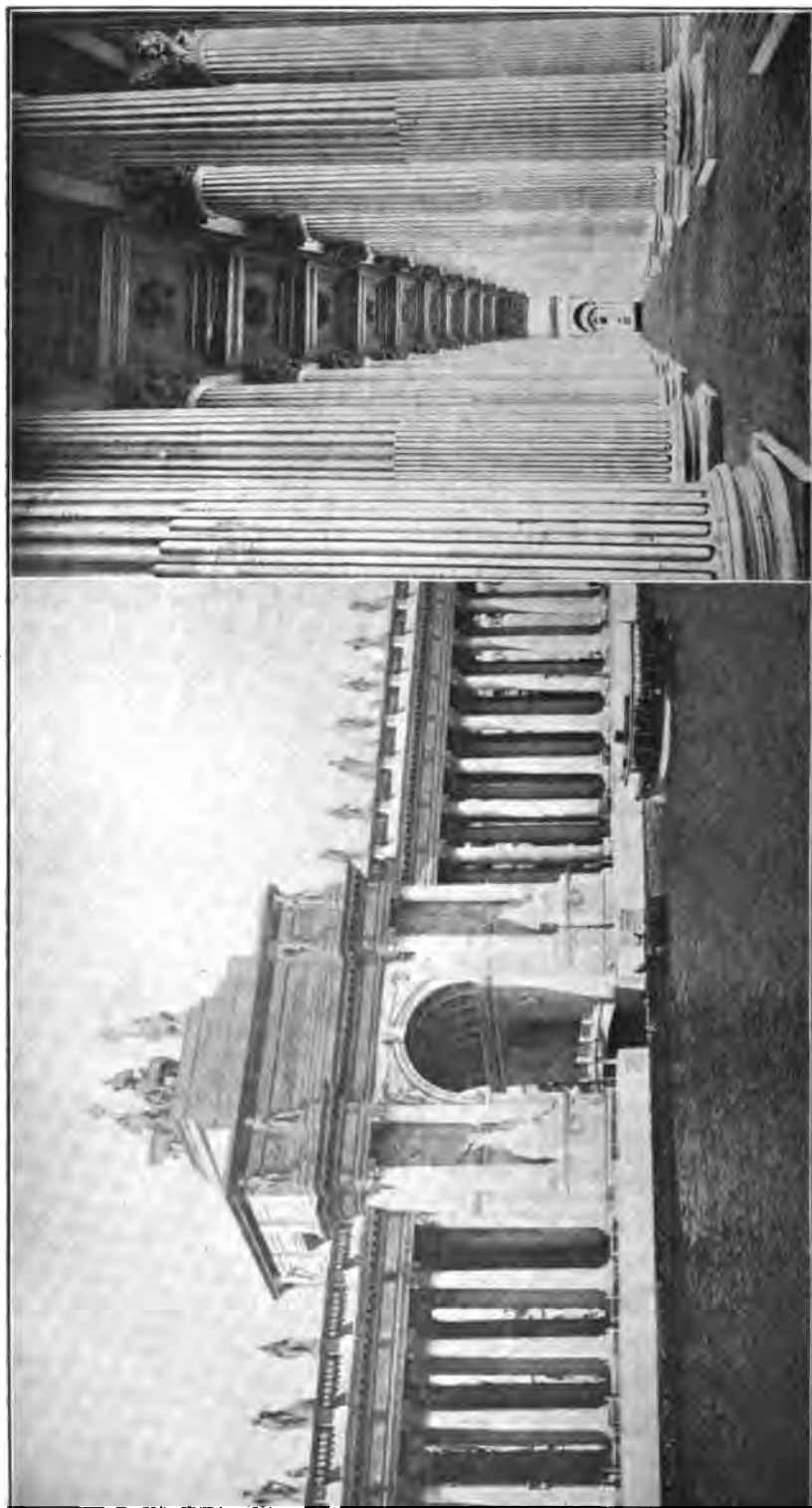
The most serious default in the scheme of the Commission is its degradation of Pennsylvania Avenue forever instead of its redemption and adornment.

It quietly mentions a central market on its present site with "ample accommodation." In the various glowing descriptions of the splendor of future realization of their dream that have appeared, there has been no æsthetic presentation of the picturesqueness of the market scenes, to be the "Midway" of the most crowded and important avenue of Washington. Let the tens of thousands who now annually cross to Paris imagine the Halles or the Marché St. Honoré opening from the Avenue de l'Opéra instead of the Place Vendôme!

The vista of the Peristyle of Mr. Atwood at Chicago was the architectural gem if not even the glory of the Exhibition. It fittingly expressed the noble conceptions of the late Mr. Root, of Burnham & Root, who, it is said, laid down the entire noble ground plan.

Mr. Root and Mr. Atwood, both deceased, have been quite forgotten in the tributes to the genius and skill revealed in transitory material yet for enduring memory and record at Chicago.

It would be a graceful and grateful recognition of one whose mantle from Elijah fell upon him, Elisha, to reconstruct in Washington on Pennsylvania Avenue, for a Portal to the Park, the Peristyle of George B. Atwood as a monument to its creator. With porticoes continuous it would be a central, sustaining grandeur in transition from the vast constructions—its terminals at the east and west.



George B. Atwood, architect, deceased.

PERISTYLE OF THE CHICAGO COLUMBIAN EXPOSITION. deserved and noble memorial to his fame—suggested by F. W. Smith—for reconstruction in concrete as a portal to the Park instead of a market, as now, on Pennsylvania Avenue.

ADDENDA NO. 2.

ARGUMENT FOR CONCRETE INSTEAD OF MARBLE CONSTRUCTION.

A recommendation of concrete construction was in mind at the writer's first approach to criticism of the schemes of the Commission, viz: To construct long stretches, heavy masses, and wide surfaces of terraces and embankments of concrete instead of marble. In published descriptions thus far there has been no mention of concrete.

The saving of expense by the latter will be enormous. In durability of beauty, contrary to first impressions, the superiority will be with concrete, if combined with rusticity and verdure. White marble in its glaring brilliancy (when new) is set forth in dazzling force by the Guérin renderings on exhibition. Marble embankments will change color and reveal fissures. It will be as dull as concrete (which can be enlivened with mica) that will remain intact through the ages.

I would that in contrast, terraces of rough-faced concrete, which vines love, overrun with English ivy, the *Ampelopsis* and *Wistaria*, in spring illumined by the *Bignonia* and in autumn by *Clematis*, had been as pleasingly portrayed by the artists.

In 1900, while in Europe, I made a visit to the Lago Maggiore for study of Italian gardens, terraced with foliage, having this application of it for Washington in view.

The island, *Isola Bella* (Beautiful Island), in 1671 was a low, barren rock. All its soil has been transported. For more than a century it has been extolled as "a magic creation of labor and taste," by Gibbon, as "an enchanted place, a work of the fairies." Its beauties are indicated in the plate annexed.

Its constructions are inexpensive, imperishable—open concrete arches, carrying esplanades, walled in foliage.

At the base of the tier of terraces, the gardener seized a branch of the wild ivy of Italy hanging from a round shaft of dense green, say 25 feet high and 6 feet in diameter. The whole mass was shaken in tremulous waves at his will. I was amazed. It did not rise from or reach to the ground, but was pendant from above—verily it was a resurrection of the hanging gardens of Babylon; a realization of which I had never yet imagined or expected in existence.

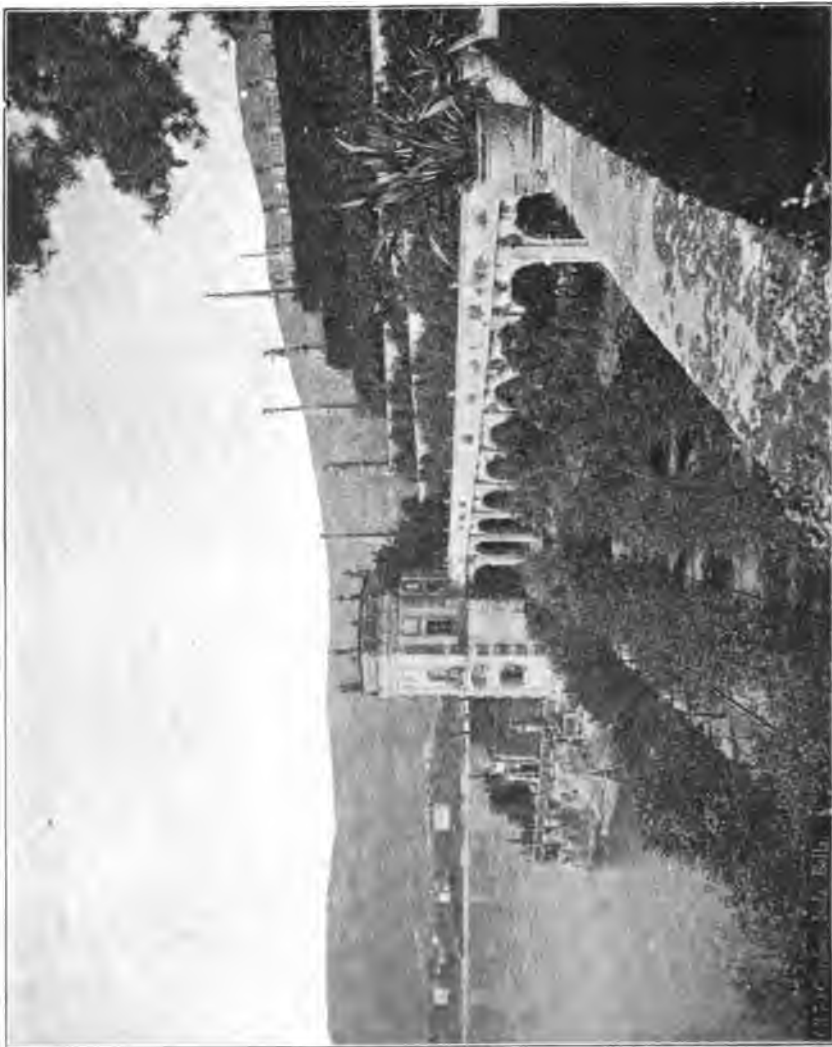
I found there patterns for economical and graceful decoration for the pleasure grounds of Washington—in cost far less and in beauty far more than ever can be in white walls of marble layers.

It is a treatment grandly practicable for the cliffs of Rock Creek and along abrupt elevations at the north.

It has been an astonishment to me that the architects of the United States have not yet utilized concrete as it has been throughout Europe for twenty years.

My first demonstration of it in St. Augustine, in 1885, in a building 65 by 90, was upon the attraction of it to McKim, Mead & White—followed upon their advice by the then young architects of the Ponce de Leon. Meanwhile it has gradually been adopted for heavy constructions, bridges, etc. Its thoroughly scientific application as *Béton*

Armé (concrete armed, or reinforced with steel), under the Henne bique system is now widespread throughout Europe. Its thorough demonstration in Paris in an eleven-story building, highly ornamented, in the Rue Danton, in the permanent palaces of Fine Arts, at the last exposition, and elsewhere, has not arrested the attention of American architects.



PAVILION AND TERRACES AT ISOLA BELLA, LAKE MAGGIORE.

The concrete arches supporting them are shown. From their upper level on the opposite side depend masses of ivy as described, realizations of hanging gardens. The esplanade at the top for festivities would hold a great company

My prediction of it in 1890, published widely in my first Prospectus for National Galleries, as the coming material, both basic and ornamental, is now recognized as near fulfillment.

The production of American Portland cement in 1890 was 335,500 barrels; in 1901, 12,711,225 barrels. (Report of U. S. Geological Survey.)

PAPER BY MR. GEORGE KELLER, ARCHITECT, OF HARTFORD, CONN.^a

If the Senate bill 4845, "regulating the erection of buildings on the Mall in the District of Columbia," becomes a law it will virtually result in the gradual adoption by Congress of the Park Commission's plan for the improvement of the Mall. Hitherto this plan has been referred to as only a suggestion for the guidance of Congress, but now it seems to be regarded as if it were an unwritten law, and that anything materially conflicting with its requirements is to be strenuously opposed. Both Senator Hale and Representative Cannon have strongly protested against the inference that this plan had the approval of Congress, and Senator Hale opposed granting permission to have the plans exhibited throughout the country if the purpose was in order "to stir up a sentiment in favor of the scheme." Now that a sentiment has been stirred up it seems a fitting time to welcome a discussion as to the merits of this plan to which it has not yet been submitted. It has had plenty of clever advertising, but anything approaching a fair criticism of the plan has been studiously avoided.

To confine this discussion to what is the best width to adopt in order to produce an agreeable vista, when it has not been determined that any vista is an actual necessity, is to lose sight of the principal question, which is this: Is the Park Commission's plan for the improvement of the Mall a suitable one for the purpose? The Senate, acting under the advice of the War Department, I suppose, has already disregarded one of its important recommendations in fixing the position of the proposed memorial bridge across the Potomac to start from the old Naval Observatory grounds instead of from where shown on the Park Commission's plan. Before irrevocably fixing the position of the Agricultural building so as not to interfere with an imaginary vista, it ought to be previously considered whether there is a reasonable probability of the future existence of such a vista or that the Park Commission's plan will be adhered to. It is not necessary to wait until this plan has had the approval of Congress, but long enough to discover whether it commends itself to sound common sense. For this reason the question should not be considered piecemeal, but the whole plan, so far as it relates to the Mall, should be carefully studied.

That there have been differences of views as to the proper treatment of the Mall can be easily shown, but this plan of the Park Commission's has been greeted with such an outburst of applause from the press of the country that all criticism seems to have been silenced and people have begun to consider the scheme as definitely settled and beyond further discussion. This is partly due, no doubt, to the elaborate and beautifully rendered drawings and models prepared without regard to cost and supplemented by a splendid collection of foreign views bearing on the subject, so that there has seldom been seen in Washington such an attractive architectural exhibition. The public, unaccustomed to considering so vast and complex a subject, and bewildered by the vision of terraces, avenues of trees, vistas, Italian gardens, monuments, and temples, has confined itself to admiring the

^a Mr. Keller made application to be heard, but unintentionally was not notified of the hearing. Upon suggestion of the committee he subsequently filed his paper, to be made a part of the proceedings.

artistic display without attempting to intelligently study the underlying scheme on which its real value depends, not on beautifully executed models or clever water-color drawings. These plans have been copied and exhibited all over the country and thus a sentiment has been stirred up in favor of the scheme. That there are serious objections to some features of the scheme I shall venture to point out, particularly in the treatment of the Mall, the grouping of public buildings, the Monument grounds, the Lincoln monument, and the memorial bridge.

In studying the different suggestions for the improvement of the Mall, made about two years before the appointment of the Park Commission and contained in Senate Document 94, Fifty-sixth Congress, second session, it will be noticed that all the writers of the articles refer to the difficulty of bringing the Washington Monument into harmonious accord with any of the proposed schemes. This difficulty arose on account of an unwise departure from L'Enfant's original design, which fixed the position of the Monument at the intersection of the prolonged axis of the White House and the Capitol. Had the Monument been placed where intended by L'Enfant it would have established an intimate relation between the two buildings, and brought the general disposition of the buildings and grounds into complete harmony, but, unfortunately, the Monument was placed considerably off the axis of the White House and slightly off that of the Capitol, so that it seems to have no relation to either of them.

This was far from the intention of L'Enfant, and any design for the improvement of the Mall that does not take this into account and suggest a suitable remedy will fail to find the right key to the difficulty. Mr. Olmsted, in his paper, although admitting its importance, does not attempt to remedy it, but proposes to let it alone and treat it as an "eccentricity of the one great feature in an otherwise perfect scheme." To shut the eyes does not remedy an evil, and Mr. Olmsted, or rather the Park Commission, after further consideration, suggest a remedy, which will be considered later. Mr. Peltz, too, judging from his plan, is of the same mind as to the hopelessness of getting over the difficulty, and contents himself with drawing a few curved walks about the base of the Monument. Mr. Seeler, in attempting to cure the evil, makes its eccentricity the more apparent by surrounding it with a colonnade, which is also *all* that Mr. Glenn Brown has to suggest. It is apparent, at a glance, that the object of encumbering the base of the noble obelisk with meretricious classic colonnades, entirely out of keeping with the Egyptian simplicity of the shaft itself, is to disguise its eccentric position in relation to the White House and Capitol. Mr. Cass Gilbert, in describing his plan, says:

I would frankly accept the fact that the Monument is off axis with the White House, and would place, at an equal distance from its axis, a low, but very important Monument, richly adorned with sculpture of grandiose scale and acting as a foil for the Monument.

This is a step in the right direction, but it does not go far enough. Besides, "grandiose sculpture" would be too much of a foil for the severe lines of an obelisk.

Having all these preliminary studies before them and recognizing the difficulty of the task, the Park Commission renew the attack and endeavor to cure the veil in this way: "To establish axial relations

between the Monument and the White House," the first report says, "is a most difficult and complicated problem; and it was only after a long process of elimination of the various forms of treatment which suggested themselves, that a sunken garden, framed in by tree-bearing terraces in the form of a Greek cross, was finally decided on."

There has been a perfect rage lately among landscape architects for sinking sunken gardens all over the country, so that "no home is happy and no back yard complete without one," as has been wittily said of the prevailing fashion for pergolas, ever since the Buffalo exhibition introduced pergolas and sunken gardens to the public. Sunken gardens are now to be seen as a part of the landscape architecture of many pretentious country houses, and it was even seriously proposed to have one in the center of Copley Square, Boston; but it was left to the Park Commission to suggest one in front of the Monument, where it would be as inappropriate as would a sunken garden be in front of the Great Pyramid, for the Egyptian severity of outline and grandeur of scale of the obelisk would not be in harmony with the playful conceit of an Italian garden; neither does the incongruous group of insignificant columns and temples springing up like architectural mushrooms about its base add to the dignity of the simple shaft.

The report goes on to say:

Rectangular basins of water support, or, rather, point to, a central pool, and from the sunken garden a flight of steps 300 feet in width, corresponding to the width of the *tapis vert* in the Mall, lead up to the base of the Monument, thus giving to that structure the 40 additional feet of height which rightfully belongs to it.

No one had previously felt the need of this additional height, but if it rightfully belongs to it on the west side, why should the east, north, and south sides be deprived of their just rights and obliged to go without? The west side, which faces the Capitol, and the north side, which faces the White House, are the natural approaches to the Monument, and are far more important than the east side. Why, then, this invidious distinction, unless it is to answer one of the objections to a sunken garden by treating it as if it were an advantage to have to climb a flight of steps 40 feet high? The freshet of 1901 flooded the Monument grounds, and if there had been a sunken garden there at that time you could have floated a man-of-war in the Greek cross.

It is difficult to understand how the axial relations between the Monument and the White House are to be established by the device of a sunken garden in the shape of a Greek cross. It seems to do it on paper as you look down on it, but it is doubtful whether the symmetry of the plan would be perceptible to a person on the ground level. The artist who made the drawing illustrating this part of the scheme apparently had misgivings of the same sort, for he has introduced a balloon in the landscape from which the observer may study the axial relations. The fact is, that it is futile to attempt to balance a magnificent obelisk—which is nearly 600 feet high—by anything less than another obelisk of the same height, and not by digging a hole in the ground.

In considering the proposed treatment of the Mall, let me refer to what the report says as to the climatic conditions in Washington:

On beginning work the commission was confronted with the fact that while from the 1st of October until about the middle of May the climatic conditions of Washington are most salubrious, during the remaining four and a half months the city is

subject to extended periods of intense heat, during which all business is conducted at an undue expenditure of physical force. Of course nothing can be done to change the weather conditions, but very much can be accomplished to mitigate the physical strain caused by summer heat.

To destroy hundreds of trees in order to form a shadeless *tapis vert* 300 feet wide and a mile and a half long is a strange way to mitigate the heat of summer, yet this is what is proposed to be done on the Mall from the Monument to the Capitol, and it will be no relief to call it *tapis vert* when it is really *tapis brun*, parched in the sun with the heated air tremulous above it.

It is designed to form a border of shade trees on each side of this avenue, framing in the vista, as it were, and what there is left of the Mall is then cut up into building lots for Government offices, so that hardly a vestige of the original Mall will be preserved.

When proposing to introduce in this country the *tapis verts* of Versailles and St. Cloud, or the long walks at Windsor and Bushy Park, the Park Commission did not take into account the moist climate of France and England, where the grass remains green all summer long. If sheets of running water, diversified by fountains and *jets d'eau*, were to occupy the space devoted to *tapis verts* the vista would still be preserved and the atmosphere cooled by the evaporation of the water.

The treatment proposed by the Park Commission for the surroundings of the Capitol is admirable and calls for no criticism. Particularly fine is the idea of Union Square with its statue of Grant in the middle, supported by his two great lieutenants—Sherman and Sheridan. The sites suggested for the statues are far better than the places already chosen, and it is to be hoped that the chosen sites will not be adhered to.

Having disposed of the Mall and the Monument, the Park Commission next addressed themselves to the Memorial Bridge, about the proposed design for which there was so much controversy three years ago. It is gratifying to find that their recommendations are a complete vindication of the part taken by me in protesting against the adoption of the design recommended to Congress, for the report condemns the ornamental towers in the center of the bridge as "unnecessary and undesirable features," and recommends that the Lincoln memorial should be placed in the middle of a circular plaza at the Washington approach to the bridge, and a corresponding memorial to balance it at the approach on the other side of the river. This is just what I had been endeavoring to impress on Congress "in season and out of season," three years ago, but I hardly expected Mr. McKim to so emphatically condemn what his partner, Mr. Stanford White, had declared to be entirely worthy of the approval of Congress.

In this dilemma the Park Commission now attempt to revive an absurd and exploded notion that a competition is not for the purpose of selecting a design, but for the selection of an architect, and imply that there is nothing inconsistent with professional etiquette and fair dealing for the author of the rejected design to appropriate the main features of another design under the pretense that the improved design is the old one "restudied" under new conditions. It is like a man who once asked a gunsmith to repair the stock, lock, and barrel of his gun, of which he had but the ramrod left.

But though the Park Commission has seen fit to adopt the main features of my design for the Memorial Bridge and the monumental

treatment of the approaches, I am obliged to take issue with them in the treatment they propose for these appropriated ideas.

In the first place they disapprove of building the Memorial Bridge of stone because the draw is of steel. Therefore they say "candor demands" that the whole bridge should be of steel. With all due respect to the opinion of the Park Commission I beg to differ from them as to what candor demands. In the famous Tower Bridge in London, which was the prototype of the rejected design, candor did not demand that the towers or bridge proper should be of steel because the bascule draw was of steel; nor in the long bridge across the Rhine at Worms are the towers and arches of steel because that material is used in some portion of the bridge. If the builders of the middle ages were told that their castles should be of wood because the draw-bridge was of that material they would consider the advice as a weak invention of the enemy and go on building with durable stone. Then, as steel does not lend itself to monumental effect, the Park Commission discover that the Memorial Bridge should be quite simple, with no elaborate architectural features—a steel bridge, in fact—which, after the lapse of fifty years, would be an unworthy memorial to a noble object. The Pennsylvania Railroad is replacing its metal bridges with bridges of stone, as experience has taught it that, in the long run, stone is the more economical and a hundred times more durable material.

To mark the approach to this light and airy steel bridge—for candor would not permit it to simulate the appearance of stone—it is proposed to erect a colonnade of heavy Doric columns, 200 feet long and 50 feet wide, in the middle of the circular plaza at the Washington approach; and a corresponding architectural feature is to balance it at the opposite end of the bridge, as if the architect and the engineer were contending for the palm, one building like a Titan and the other like a spider, in a structure which should be treated as one harmonious whole, and not like specimens of two types of construction.

As to the colonnade itself, it smacks too much of the advertisement—an immense placard with Lincoln standing in front of it. The silhouette of the colonnade against the sky suggests the ruins of the temple of the sun, or the abortive attempt to reproduce the Parthenon on Calton Hill, Edinburgh. Far nobler and more striking would be a memorial arch, a circular hall of fame, or a monumental column that would "compose" whichever way it is viewed instead of a long, meaningless, inaccessible portico of Doric columns 200 feet long and but 50 feet wide—"like a shad seen edgewise," as Dr. Horace Bushnell once likened a building to—askew with the memorial bridge and the Rock Creek boulevard.

As to the grouping of public buildings the conditions have materially changed since L'Enfant's design was made, and while it is commendable to carry out his design as far as practicable, it would be criminal to ruthlessly destroy a whole park in order to make it conform to a suggestion made over one hundred years ago, when the Mall was a wild waste of unimproved land. As was said before, the Park Commission propose to cut up into rectangular building lots what is left of the Mall, after making the vista and the tree-shaded walks on either side of the great *tapis vert*. These buildings, strung along for a mile and a half between the Monument and the Capitol, would not be as

348.

convenient for conducting the public business as would buildings grouped near the White House and the Capitol, reserving the Mall, which is low-lying ground, as an ornamental park, with a suitable avenue of approach in the center leading to the Capitol from the Monument grounds.

If we examine L'Enfant's plan we will discover that he contemplated having public buildings extending on either side of the White House to the south toward the Monument, and considerably past the Monument on the eastern side. He also indicated building sites to the east of the Capitol, as in the Park Commission's scheme. Fortunately the land south of the White House and east of the Capitol is still largely unimproved, and much of it is owned by the Government. It provides sites for further public buildings for one hundred years to come, and where they would be convenient for the transaction of public business, so that common sense would suggest that these sites be chosen instead of going down in the hollow of the Mall, where buildings would entail the complete destruction of its park-like character.

In the case of the White House, if one were called on to improve its surroundings without regard to the needs of the Government, the principal ornamental feature, following a well-recognized rule of landscape architecture, would be laid out toward the sunny south and not toward the cold northern aspect. The north being already laid out as a park, surrounded by old and historic mansions, the true direction for future public buildings to take would naturally be toward the south, where the land lies inviting such embellishment as stately public buildings would give to it. The Park Commission confess the necessity of framing in the White House lot, but instead of carrying out L'Enfant's evident intention to do this with stately buildings on the east and west sides, they propose to do it with "plantations of trees." If there is such a deep regard for everything shown on the Washington L'Enfant plan, why do they depart from its plain intention and substitute plantations of trees for monumental buildings?

It is only fair to expect of anyone criticising a scheme which, however mistakenly, has evidently been honestly and laboriously developed that he should be prepared to offer something as a substitute for the features objected to. This I am prepared to do by submitting a plan which was sketched out in Washington before the Park Commission was even appointed, and developed the following summer, before the Commission had left this country to visit foreign cities in quest of suggestions, and long before any extracts from the Park Commission's report had been made public, so that it can be fairly considered as an original contribution to the subject. It has one feature in common with the plan of the Park Commission and indeed to most of the different studies of the subject, the forming of a vista from the Monument grounds to the Capitol, but the treatment of this feature is entirely different. In the two illustrations accompanying this paper the bird's-eye view is from a sketch made over three years ago; the plan which was made later has incorporated in it some of the features of the Park Commission scheme.

To begin with the Washington Monument is the crux of the whole scheme, for to bring that into axial relations with the White House and the Capitol has been seen to be the chief difficulty of all those who have essayed the task of improving the Mall. On the remedy to this difficulty hangs the success of whatever plan may be adopted.

In Egypt the obelisks were usually erected in pairs as memorials to their great dead, one on either side of the gates of the temples. It was only when they were carried off to Europe and this country that they were treated as isolated monuments. The two obelisks known as "Cleopatra's Needles" formerly stood in front of an ancient temple; but now one is set up on the Thames embankment, London, and the other in the Central Park, New York. The temple El Karnak still possesses an obelisk 108 feet high, a monument to Queen Hatshepu. The fellow of this great obelisk has been broken, and its fragments strew the ground.

A low monument, such as Mr. Cass Gilbert proposed, no matter how important, would never balance such an immense obelisk as the Washington Monument, which is 55 feet square at the base and 550 feet high. It would always have a halting, unsatisfactory effect. It is obvious that the simplest way out of the difficulty is to adopt the custom followed where the obelisk had its origin and erect another one 500 feet west from the axis of the White House to balance the monument which stands 500 feet to the east. After one has grown accustomed to the novelty of this idea its appropriateness becomes evident.

At an anniversary of Washington's birthday, at Chicago, a few years ago, Senator Hoar contrasted Washington with Lincoln. After considering other great names in ancient and modern times, including Greek and Roman heroes, Saxon King Alfred, and the Duke of Wellington, Senator Hoar said:

One figure remains and one alone, who in the opinion of mankind may share with Washington his lofty pinnacle. His is an American name also. Never were two men more unlike in every lineament that made up their mental and physical portraiture than George Washington and Abraham Lincoln. But each of these men embodied what was best in his countrymen in his generation. Each was the first citizen among a people who were like him. Each wrought in accord with his time. Washington more than any other man was the creator of a nation, of which Lincoln, more than any other man, was the savior.

Washington and Lincoln are admitted to be the two greatest figures in the history of the country, they stand on the same level in the estimation of the people, and therefore it seems fitting to erect this counterpart of the Monument to commemorate the life of him who was the counterpart of Washington—Lincoln. In fact, the obelisk would be a more characteristic form for a memorial to Lincoln than it is to Washington. The one was a courtly gentleman and the other was one of nature's noblemen, plain and upright.

Any important monument intended as a foil to the Washington Monument would necessarily have to be a costly one, and equally costly, though ineffective, would be a sunken garden, so that it would be better to use the same amount of money on an obelisk which would at once balance the one erected to Washington and remedy the unfortunate mistake made in departing from L'Enfant's original plan. It was proposed to build a memorial arch to President McKinley at a cost of \$1,500,000; the Washington Monument cost \$1,200,000, and its fellow could be built for less than \$1,000,000, which comparatively small sum should not deter Congress from sanctioning the project on account of the cost. Lincoln has no monument in the Capital worthy of his great services to the country and it seems as if this place were waiting to be filled by a fellow obelisk to Lincoln, the peer of Washington.

The Place de la Concorde in Paris has one of the obelisks of Luxor standing in the middle of the square between two ornamental fountains. One side of the Place is open to the river Seine, which is crossed by the Pont de la Concorde, the bridge following the axis of the central obelisk. The opposite side of the Place is lined with palaces, the center open to the Rue Royal, which gives a fine view of the Madeleine. To the right and left lie the Champs-Élysées and the Garden of the Tuileries, respectively. In like manner if two obelisks were to face the White House it would naturally follow that they should be given an appropriate setting in a splendid Monument square, framed with fine buildings and decorated with gardens, taking care not to destroy the view of the Potomac from the White House. This square would face the river, and on the opposite side would be the White House grounds inclosed by public buildings, extensions of the blocks in which are the Treasury and Army and Navy buildings—1,000 feet apart.

The east and west sides of this Monument square would be lined with important buildings having ample spaces between each so as to properly set off its beauty, and with foliage to carry the eye pleasantly and restfully from one structure to the next.

The public buildings facing the White House grounds would run in the same direction as the buildings which bound Monument square to the east and west and extend northerly beyond the square as far as Pennsylvania avenue. These buildings would face broad avenues each 150 feet wide, being continuations of Fifteenth and Seventeenth streets, respectively, and would form dignified and stately approaches to Monument square from Pennsylvania avenue. This arrangement would group the Government buildings in proximity to the White House, as they should be, and yet provide ample space in order to maintain a consistent and dignified effect. It also admits of connecting all of the buildings by underground passages for use in case of emergencies.

The level of the Pennsylvania Railroad tracks where they cross the Mall is but 7 or 8 feet above the sea level, and the ground level at the base of the Monument is 40 feet 6 inches above the level of the sea, which is the general level of the proposed Monument square, so that it would seem more sensible to group magnificent buildings costing from two to three millions each around this square rather than to put them down in the hollow of the Mall. In order to carry out this arrangement it would be necessary to reclaim some of the land, but the example of the Back Bay in Boston has shown what may be done in that direction. By a conservative estimate it has been ascertained that the whole of the region owned by the Government north of the Monument can be filled up, if so much elevation were desired, to the level of the White House lawn and the Monument base for about \$3,000,000. The cost of condemning six squares around Lafayette Park would be in the neighborhood of \$2,000,000 each, or \$12,000,000, a saving to the Government of between nine and ten millions in that direction alone if the southern site is chosen. Mr. Post has explained to you how the engineering difficulties can be readily and economically overcome.

By grouping the public buildings near the White House the Mall is relieved from the encumbrance of massive buildings so destructive to that park-like character properly belonging to it, while it permits the present Smithsonian Institution, Museum, Botanical Gardens, etc., to

remain, and retains the proposed Agricultural building where it has been decided to place it.

Some idea of the extent of the White House grounds and the Monument square as laid out on the plan to which this description refers may be formed by comparing them with well-known like spaces elsewhere. The White House grounds cover about the same area as the Garden of the Tuileries in Paris, which opens into the Place de la Concorde, for the White House grounds measure 1,000 feet by 2,050 feet, and the Garden of the Tuileries 990 feet by 2,256 feet. The Place de la Concorde is 715 feet by 1,000 feet, and the Monument square is 1,800 feet by 2,000 feet, so that the spectator is 1,900 feet from the obelisks, or twice their height, the proper distance to get the best effect for such immense objects.

In considering the improvement of the Mall it is assumed that the wise recommendation of the Secretary of War to Congress will be ultimately adopted. This advises the possession by the Government of the whole of that tract of land contained in the triangle embraced between Pennsylvania and Maryland avenues, and from the Capitol to the White House grounds. Whether the recommendation of the Secretary is carried out or not, the main features of the proposed improvement can be accomplished, leaving that part of the scheme involving the condemnation of land to the future, but still preserving to the Mall its park-like character. An opportunity will then be given to carry out, in a measure, L'Enfant's original intention to treat the Mall as a beautiful foreground to the Capitol, with a wide and dignified approach up the middle of the Mall leading from Monument Square to the Capitol.

It is proposed to treat this boulevard so as to distinguish it from the other avenues of the capital, to give it a peculiarly ornamental, park-like character in harmony with its surroundings without sacrificing the stately, impressive effect that the principal approach to the first building in the country should have. The open space in the middle of the boulevard is intended for scenic effect, forming a beautiful vista closed by the Capitol at one end and the Monument at the other. This broad space is not for the use of traffic. For this reason, instead of treating it as at Versailles and Fontainebleau as *tapis vertes*, or leaving it as a long, monotonous roadway reflecting the heat of the sun, the middle of the boulevard is occupied by a succession of pools 150 feet wide of running water, on either side of which are avenues lined with trees, traversed by paths where one may walk or drive in the shade from the Capitol to the Monument. The pools cool the air and reflect the sky and the trees lining the boulevard.

The Mall is crossed transversely by streets connecting Pennsylvania and Maryland avenues on either side, devoted, as at present, to traffic, and where they intersect the boulevard the crossings are marked by fountains, the middle one designed as a monument to L'Enfant, surrounded by the realization of his long-neglected and almost-forgotten plan. The cascade west of the Capitol, as shown in his design, is retained, and feeds the succession of pools strung along the center of the boulevard until finally the water is emptied into the tidal basins bordering the south side of the Monument square. A great circular basin occupies a space between the obelisks. The flow of water necessary to insure an abundant and continuous supply to the cascade, ornamental ponds, and fountains is calculated to be brought from the

Anacostia River, which engineers assert is entirely feasible. The rest of the Mall not devoted to the boulevard or the streets crossing it is intended to be laid out as a park, with no buildings between it and Pennsylvania or Maryland avenues to shut out the view from those thoroughfares.

The walks of these thoroughfares on the side next to the Mall are intended to have avenues of trees so as to provide pleasant, shady promenades entirely around the boundary of the Mall. The effect of this park, open to the view from Pennsylvania and Maryland avenues, not hedged in by buildings or other obstructions, will tend to encourage the removal of the shabby buildings on the opposite sides of the avenues, and lead to the erection in their stead of beautiful structures worthy of their position. This has been the experience in New York along the lines of Fifth avenue, Eighth avenue, and Fifty-ninth street where these streets overlook the Central Park; the same thing is observed in Princess street, Edinburg, the principal business street of that city, which faces the Princess street gardens and Castle Hill. It is also to be seen in the Rue Rivoli, Paris, where the beautiful shops are on one side and the garden of the Tuileries on the other. Instances could be multiplied, but these are sufficient to show the tendency to improve property overlooking public parks, so that there would be no occasion for including the opposite sides of these thoroughfares in the general scheme for the improvement of Washington, for that will right itself.

In conclusion, it may not be amiss to repeat here a suggestion made to the Senate committee in March, 1901, before the appointment of the Park Commission, as follows:

Instead of appointing a restricted committee of experts to prepare a plan for the improvement of Washington, it is respectfully suggested that a competition be instituted and that the Senate subcommittee invite, say, five architects and five landscape gardeners or architects to submit general plans in competition, paying them a reasonable amount, but giving others who desire it the liberty to take part. Each architect invited should be directed to associate with himself a landscape architect, and each landscape architect an architect of his own choice. This would insure a variety of ideas for the consideration of the committee and each design would be the joint production of an architect and landscape architect. The terms of the competition should be drawn up by the subcommittee with the assistance of an architect and a landscape architect as advisers, who should have no interest whatever in any of the designs submitted. These advisers should select a certain number of designs from those submitted, and, placing them in the order of their merit, leave the final choice to the Senate committee, or such a commission as is provided in the Senate bill for the execution of the proposed Memorial Bridge, viz, the President of the Senate, the Speaker of the House, the chairmen of the Senate and House District Committees, and the Secretary of War.

354

INDEX.

	Page.
American Institute of Architects, letter of.....	6
Burnham, D. H., statement of.....	12
Butler, Nicholas M., letter of.....	4
Day, Frank Miles, statement of.....	23
Eames, W. S., statement of.....	23
Galloway, B. T., statement of.....	7
Hornblower, J. C., statement of.....	25
Keller, George, paper of.....	43
Kellogg, Thomas M., statement of.....	30
Langley, Prof. S. P., statement of.....	11
McKim, C. F., statement of.....	27
Mundie, W. B., statement of.....	27
Olmsted, F. L., jr., statement of.....	28
Post, George B., statement of.....	20
additional statement of.....	25
St. Gaudens, Augustus, statement of.....	31
Smith, Franklin W., statement of.....	32
Washington Architectural Club, resolutions adopted by.....	4
Wilson, Hon. James, letter of.....	5

356

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10

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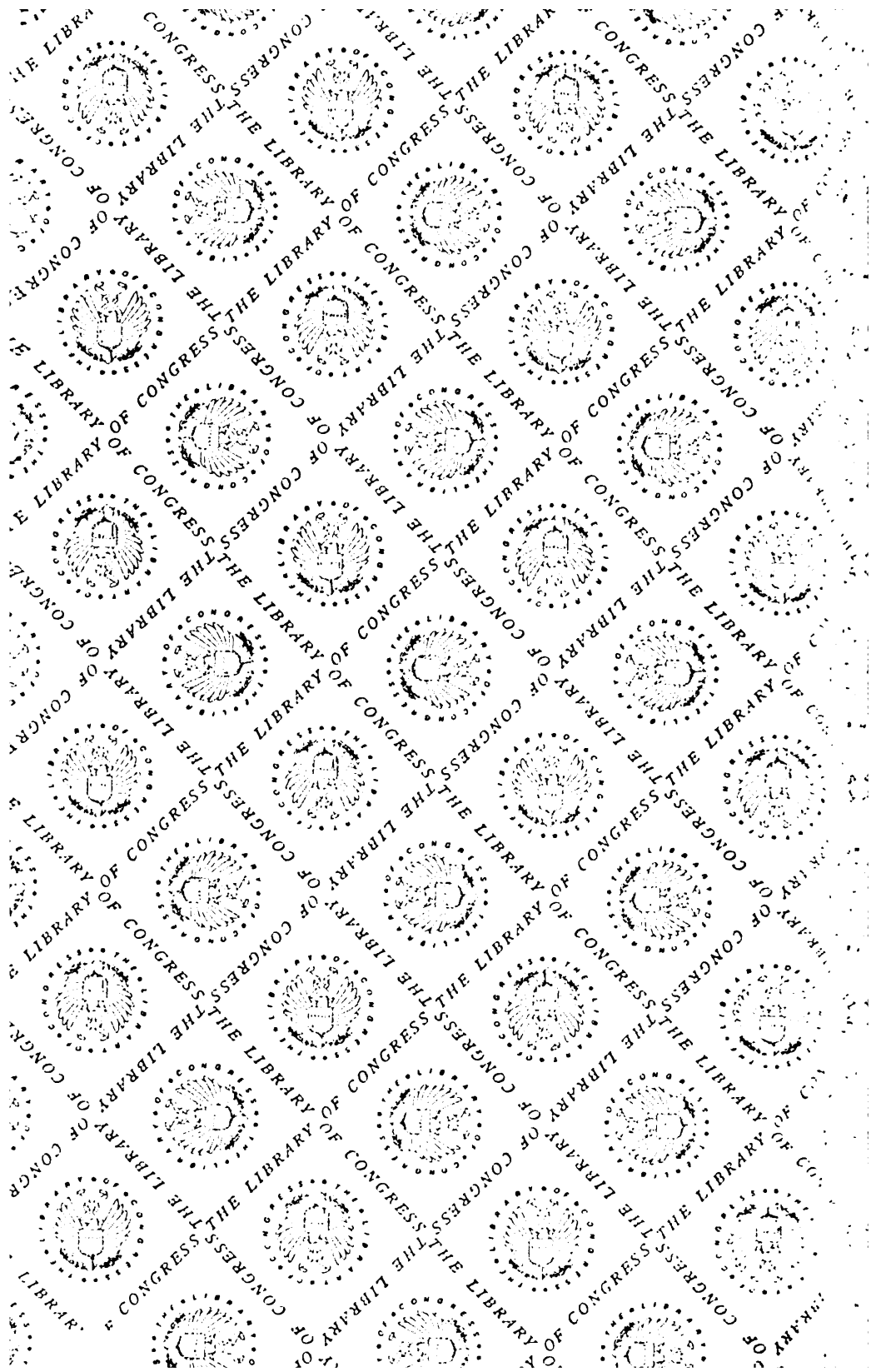
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